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3 CONSTITUTIONAL CONVENTION

4 OF THE

5 STATE OF MARYLAND
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10 Chamber of the House of Delegates

11 State Capitol

12 Annapolis, Maryland

13 December 29, 1967 - 12:20 p.m.
1415 -----
1617 HONORABLE H. VERNON ENEY,
18 PRESIDENT

19 Reported by:

20 C. L. Hurban

and

21 D. Fitzgerald

P R O C E E D I N G S

December 29, 1967 - 12:20 p.m.

THE PRESIDENT: The Sergeant-at-Arms will
clear the aisles and close the doors.

The Convention will please come to order.

The invocation today will be offered by
Monsignor Philip Brown of St. Ambrose Church, Cheverly.
Monsignor Brown is the minister of Delegate Boyer.

MONSIGNOR BROWN: In the Name of the Father,
and of the Son and of the Holy Spirit.

Our help is in the name of the Lord, Who hath
made Heaven and earth. O, Lord hear my prayer and let my
cry come unto you.

Let us pray.

O Lord, in these momentous days of the State
Convention, grant to the leaders of the State and the
delegates, the elected representatives of the people, wisdom
in knowing, courage in accomplishing and dedication in
fulfilling the responsibilities of their respective offices.
May the fruits of their endeavors bring peace and concord,
justice and happiness to all the citizens of this great
State, the Land of Sanctuary. Through Christ our Lord, Amen.

1 THE PRESIDENT: Roll call.

2 (Whereupon, a roll call was taken.)

3 THE PRESIDENT: Have all delegates answered
4 roll call?

5 The Clerk will record the roll call.

6 There being a quorum present, the Convention is
7 in session.

8 The Chair recognizes Delegate Powers, Chairman
9 of the Committee on Calendar and Agenda.

10 DELEGATE POWERS: Mr. President, I move today's
11 calendar be amended by deleting Item 7(i), Committee
12 Recommendation GP-4, since that was adopted about three
13 weeks ago on second reading and, as amended, I move the
14 calendar and agenda be adopted.

15 THE PRESIDENT: Second?

16 (Whereupon, the motion was duly seconded.)

17 THE PRESIDENT: All in favor signify by saying
18 aye; contrary, no. The ayes have it, it is so ordered.
19 The calendar is amended and, as amended, is adopted.

20 Are there any reports of committees? Are
21 there any motions or resolutions? The Chair hears none.

1 Let me call your attention to the fact that
2 the calendar may be a little misleading in that it
3 schedules items according to the committee recommendation
4 number, and yet in the reports of the Committee on Style
5 and Drafting, some of the parts of some of the committee
6 recommendations are included elsewhere than in the
7 position in which they appear on the agenda.

8 For instance, the first two items are Committee
9 Recommendation R&P-1 and Committee Recommendation R&P-2.
10 One or more sections of these recommendations are covered
11 by subsequent reports of the Committee on Style. Therefore,
12 what we will do in taking up these items is to take the por-
13 tions of each of the committee recommendations covered by
14 a particular report of the Committee on Style.

15 For instance, the first two items we will
16 take up together and will consider the items covered by
17 Report S&D-9. We will not consider the parts of the R&P-1
18 and 2 which are, for instance, in S&D-17. Therefore, you
19 should have before you the brown report Committee on Style
20 No. S&D-9.

21 The Chair recognizes Delegate Penniman, Chairman

1 of the committee on Style.

2 Delegate Penniman.

3 DELEGATE PENNIMAN: Mr. Chairman, in addition to
4 the reports on portions of Report 21 and 22 there was
5 also, if you remember, a separate Report No. 31 from the
6 Committee of the Whole that included the two items that
7 were postponed briefly from the discussion when we talked
8 about R&P-1, so that grand jury indictment and imprisonment
9 for debt were actually in Report No. 31 of the Committee
10 of the Whole.

11 THE PRESIDENT: You mean they should be included
12 in the references on the first page of the Style Committee's
13 report?

14 DELEGATE PENNIMAN: That is correct.

15 THE PRESIDENT: Where it refers to Committee
16 of the Whole Report No. 21 and 22 you add 31 and 32?

17 DELEGATE PENNIMAN: Just 31.

18 THE PRESIDENT: Add 31. Thank you.

19 DELEGATE PENNIMAN: Before I begin this morning,
20 I might give you just a bit of folk wisdom that I picked up
21 last night. I inadvertently went into a bar after we closed

1 and found that the bartender had just turned 37. One of
2 his customers was there celebrating the bartender's birth-
3 day, and they were discussing the fact that after 36 a man
4 really has run down, he has no future, it is all behind him
5 and things are pretty bleak from that stage on.

6 Then they noted, at the closing of it, that
7 there are certain characteristics one could discover. One
8 was no man can work more than six hours per day after he
9 has reached the age of 36 and, furthermore, every man
10 needs an absolute minimum of eight hours sleep after he has
11 passed the age of 36.

12 Since this does not apply to a number of you
13 who have not reached the age of 36, I give it to you for
14 future reference. (Laughter).

15 We made in the Personal Rights and the Preamble
16 relatively few changes, again. We made no changes in the
17 Preamble save to capitalize the "S" in "State" and the
18 "C" in "Constitution", and take out one semi-colon.

19 "Freedom of expression" remains as it was.

20 1.02 remains as it came to us.

21 In Section 1.03 on due process, we removed a

1 comma and a semi-colon, and we changed slightly the title
2 to remove the words "right to", which we have done
3 consistently, and merely used the topic of the Right.

4 Moving to the "Fair Treatment in Investigations",
5 we shortened it slightly, but it came in almost the same
6 as it came from the Committee of the Whole, and as it had
7 been reported to the Committee of the Whole in R&P-2.

8 In 1.05, in addition to changing the title,
9 shortening the title, we did make a couple of changes
10 by adding the words "and to be secure against unreasonable
11 interceptions of their communications", to indicate that
12 the committee's understanding was that it might be broader
13 than "persons, houses, papers and effects" in the case of
14 interceptions of communications.

15 We broke the long sentence into two and spoke
16 about "no warrants shall be issued" rather than the older
17 wording "shall issue".

18 "Grand Jury Indictment" was one of those that
19 came from 3.01, and it is the same except the title is
20 reduced slightly.

21 In 1.08 under "Removal of Criminal Cases",

1 we changed the word on line 14 from "court" to "countv"
2 in view of the drastic reorganization of the court system
3 under Article 5. As there would not be a court in some
4 sense in some of the counties it seemed to us to be better
5 to change the word to "county" to be more in line with the
6 decisions of the Committee of the Whole in approving
7 Article 5.

8 In Section 1.12, I would like to ask for an
9 opportunity to change our own changes.

10 A comma in line 40 after "debt" should not
11 have been stricken as we did strike it, and in line 47,
12 the last word in that should be capitalized in line with
13 the way in which we have been handling articles, sections
14 and references to the constitution.

15 THE PRESIDENT: Is there any objection to modify-
16 ing the committee recommendations in the manner indicated,
17 by leaving in the comma on line 40 on page 3, and by
18 capitalizing the first letter of the word "Section"
19 in line 47?

20 If there is no objection, the committee's
21 recommendations will be considered as modified in the

1 particulars indicated.

2 DELEGATE PENNIMAN: In Section 1.13 we speak
3 of the "Right of trial by jury of all issues of fact in civil
4 proceedings at law" rather than "in the courts of law",
5 since it is our belief that it is the proceedings that
6 are crucial rather than the fact of the courts. Since
7 there may be either civil law or equity proceedings handled
8 by the same court, it is the proceedings that is important.

9 In line 9 there is another one of those miserable
10 "provides" left over from an earlier era, and I would like
11 to have the opportunity to change the word "provide" to
12 "prescribe".

13 THE PRESIDENT: And the same thing in line 11?

14 DELEGATE PENNIMAN: Yes, the same thing in
15 line 11.

16 THE PRESIDENT: Is there any objection to adding
17 to the changes recommended by the committee in line 9
18 on page 4, change "provide" to "prescribe", in line 11
19 on page 4 the same change?

20 There is no objection. The committee recommend-
21 ation will be considered as so modified.

1 DELEGATE PENNIMAN: In 1.14 we dropped the
2 words "and the provisions of this constitution" in order
3 that we could recombine them as instructed by the
4 Committee of the Whole with the contingency section as it
5 came from LB-3 about what to do in the case of emergencies --
6 I said contingency, I meant continuity in periods of
7 emergency -- so that reappears in the Committee on Style,
8 Drafting and Arrangement in Report No. 17.

9 There were no changes in "Habeas Corpus",
10 "Ex Post Facto", "Eminent Domain" as they came. If we
11 could, there are three changes, typing errors and one more
12 "provide" in Section 1.17.

13 On line 37, we do not need to say "collectively
14 collective bargaining". We need to drop the word
15 "collectively".

16 There is a typing error also in line 39, where
17 it is "the right to organize" not "the right or organize",
18 and finally in line 43 the word "provide" should be
19 "prescribe".

20 (At this point, the Honorable William S. James,
21 Second Vice President, assumed the Chair.)

1 DELEGATE JAMES: Is there any objection to making
2 these technical changes? If not, the section will be so
3 modified.

4 DELEGATE PENNIMAN: There are a number of other
5 sections which will go into the General Provisions.

6 On line 10, "provided by law" should be changed
7 to "prescribed by law".

8 DELEGATE JAMES: Is there any objection
9 to making this change on line 10 of the word "provided"
10 to "prescribed"?

11 With no objections, the section will be so
12 modified.

13 DELEGATE PENNIMAN: In the second one on
14 Sovereign Immunity in line 22 there is another "provided"
15 to be changed to "prescribed".

16 DELEGATE JAMES: Unless there is objection,
17 the section will be considered so modified.

18 DELEGATE PENNIMAN: We changed the suits against
19 the State or any of the subdivisions or any units of local
20 government because "political subdivisions" in this case
21 clearly meant units of local government or their own

1 departments or agencies.

2 DELEGATE JAMES: Are there any questions?

3 DELEGATE PENNIMAN: Perhaps it would be worth
4 noting why we struck the last sentence. We spoke to the
5 people who had proposed this as an amendment. It had
6 been added to the article on the floor. When we talked
7 to the sponsors of it, making clear that the words "prescribed
8 by law" would mean by public general law unless it was one
9 of the exceptions made in the section on the general
10 application of the law.

11 You may have noted, those of you who had the
12 chance last night to do some reading after you got home,
13 you may have noted that we finally have that much referred
14 to Section 7.06 under general application of the laws
15 which was originally in local government and is now in fact
16 in the legislative section, as we have said it would be,
17 and it is, I believe, No. 3.23.

18 DELEGATE JAMES: Are there any questions?

19 The Chair recognizes Delegate Dukes.

20 DELEGATE DUKES: Chairman Penniman, can you
21 tell me whether on page 5 in line 20 the pronoun "their"

1 has as its antecedent not only "any unit of local govern-
2 ment", but also "state", in the two or three lines above it?
3 Is it intended that phrase modify both "local units of
4 government" and "state"?

5 DELEGATE PENNIMAN: Yes.

6 DELEGATE JAMES: Delegate Willoner.

7 DELEGATE WILLONER: Since we are on page 5,
8 on line 9, on the limitations on holding office, does the
9 phrase "laws of this state" include the laws of all bodies
10 of the state, the General Assembly, municipalities?

11 DELEGATE PENNIMAN: That is correct.

12 DELEGATE WILLONER: In Section 1.05, the change
13 made "and to be secure against unreasonable" on line 28
14 was intended, I assume, not to be a change in substance,
15 but I understand that the mover of this amendment, who is
16 not at the rostrum at this point, considers that it is a
17 change of substance.

18 Is that correct, Mr. Penniman?

19 DELEGATE PENNIMAN: That is my understanding
20 of it, at the point at which he moved it in the committee
21 he did not think of it as a change in substance but

1 thought of it -- and I am most hesitant to speak for the
2 Chairman -- at the time he made it, he assumed that it was
3 the intention of the Committee and that this was clear from
4 the discussion on the floor, but I think in later conver-
5 sations with you he agreed that he may been wrong in that
6 assumption.

7 DELEGATE WILLONER: The statement as to Section
8 1.14 in your committee report is incorrect, isn't it?

9 DELEGATE PENNIMAN: It is incorrect. It fails
10 to say anything other than it struck those lines and seems
11 to say they were superfluous, but that was not the intention
12 at all. They have been recombined and will ultimately
13 be returned to the section on personal rights. At the
14 moment they are in the Report No. S&D-17 as the last item on
15 page 3.

16 DELEGATE JAMES: Do you have any further
17 questions?

18 DELEGATE WILLONER: In Section 1.13 where it now
19 says that "the jury shall consist of not less than twelve",
20 this was not changed because it was thought that it
21 might be a change in substance in that "not less than" might

1 mean more than twelve, but there will be an amendment to
2 straighten that out, is that correct -- a style amendment?

3 DELEGATE PENNIMAN: Yes, that is my under-
4 standing.

5 DELEGATE WILLONER: Thank you.

6 DELEGATE JAMES: Delegate Marvin Smith.

7 DELEGATE MARVIN SMITH: Mr. President, I call
8 Delegate Penniman's attention to page 3, Section 1.12.

9 In line 41 you have inserted "an obligation created by".

10 Now, I would like to know to what this refers? Does it
11 refer to an obligation speaking in terms of alimony or
12 support or would this be some independent obligation
13 created by decree?

14 DELEGATE PENNIMAN: It would be the obligation
15 growing out of a failure to pay as a result of a valid
16 decree or agreement approved by decree, and it would
17 then go down to the failure to pay support for wife or
18 dependent children or illegitimate children on alimony,
19 all of the items that are listed.

20 DELEGATE MARVIN SMITH: But only that?

21 DELEGATE PENNIMAN: Only that, that is correct.

1 DELEGATE JAMES: Delegate Clagett.

2 DELEGATE CLAGETT: Delegate Penniman, with
3 respect to Section 1.08, line 12, where you use the word
4 "party", that means either the state or a defendant?

5 DELEGATE PENNIMAN: That is my understanding.

6 DELEGATE CLAGETT: And if there are more than
7 two defendants whose cases are being combined for purposes
8 of trial, does that mean that each of the defendants would
9 have a right or the two must act concurrently, and by agree-
10 ment?

11 (At this point, the Honorable H. Vernon Eney,
12 President of the Convention, resumed the chair.)

13 THE PRESIDENT: Delegate Penniman.

14 DELEGATE PENNIMAN: I am hesitant to go into
15 that, but I think in any case it is no change to change
16 from "of the parties", that is, "either of the parties"
17 to "by the party", but I would hesitate to get involved in
18 the content.

19 We say what was said when it came to us, but
20 I would be hesitant to go into the text beyond that.

21 THE PRESIDENT: Delegate Clagett.

1 DELEGATE CLAGETT: But as you use the language
2 here you mean a party being the state as prosecutor, and
3 party defendant, whoever that might be.

4 DELEGATE PENNIMAN: That was my understanding
5 of it.

6 THE PRESIDENT: Are there any other questions?
7 Delegate Weidemeyer.

8 DELEGATE WEIDEMEYER: Mr. Chairman, in Section
9 1.05, and on line 30, the committee took out the word "or"
10 and placed in the word "and", and I am wondering if we would
11 not be better off to strike the "and" and reinsert the "or"
12 so as to make our meaning a lot more clear than what we have
13 here.

14 It would seem to me that that clause "and other
15 invasions of their privacy shall not be violated" of course
16 could by some reasoning be said to refer back to "and be
17 secure against unreasonable other invasions of their
18 privacy."

19 To me it just doesn't read right the way it is
20 there.

21 DELEGATE PENNIMAN: The committee's intention

1 was that this not be an either/or case, but our understanding
2 was that the citizen was to be protected against each of
3 these -- that is, one and the other at the same time.

4 THE PRESIDENT: Protection against both, in
5 other words.

6 DELEGATE PENNIMAN: Both at the same time.

7 THE PRESIDENT: Delegate Weidemeyer.

8 DELEGATE WEIDEMEYER: I understand an amendment
9 will be offered to clarify the way that reads.

10 In Section 1.12 and in line 42, "or agreement
11 approved by decree of the court" -- do you mean by the
12 word "approved" that the agreement must be embodied either
13 by specific reference or in toto in the decree of the
14 court?

15 DELEGATE PENNIMAN: These were the words that
16 came to us, and this would I think be a substantive question
17 which I choose not to answer. I think it is one for
18 the chairman of the Substantive Committee, Delegate
19 Weidemeyer.

20 THE PRESIDENT: Delegate Kiefer, could you
21 respond to the question? The question is with respect to

1 Section 1.12. The question asked is whether the clause
2 referring to an agreement approved by decree of a court
3 requires that the agreement be specifically referred to or
4 incorporated in toto, embodied in the decree.

5 Delegate Kiefer.

6 DELEGATE KIEFER: Mr. President, it is my
7 understanding that it does.

8 THE PRESIDENT: Is there any further question,
9 Delegate Weidemeyer?

10 DELEGATE WEIDEMEYER: I have no further questions
11 on it.

12 THE PRESIDENT: Are there any other questions?

13 If not, Delegate Penniman may return to his seat.

14 The Committee Recommendation R&P-1 and R&P-2
15 is now open for consideration of amendments as to style,
16 amendments pertaining to the amendments suggested and
17 recommended by the Committee on Style.

18 Are there any such amendments, amendments
19 as to style with respect to Section 1.01?

20 The Chair hears none.

21 Are there any with respect to Section 1.02?

1 The Chair hears none.

2 Are there any with respect to Section 1.03?

3 The Chair hears none.

4 Any with respect to Section 1.04?

5 The Chair hears none.

6 Any with respect to Section 1.05?

7 With respect to 1.06?

8 Delegate Willoner.

9 DELEGATE WILLONER: I have Amendment Q, a
10 committee amendment to Section 1.05.

11 THE PRESIDENT: Delegate Willoner, as the Chair
12 understands the amendment, you are in effect restoring
13 Section 1.05 to exactly the form before the amendments
14 as to style were inserted?

15 DELEGATE WILLONER: That is correct, Mr. Chairman.

16 THE PRESIDENT: Then I don't think the amend-
17 ment is necessary. The procedure would be simply to ask
18 for a separate vote on Section 1.05 and to vote against
19 the amendments proposed by the Committee on Style. This
20 would accomplish the same purpose.

21 DELEGATE WILLONER: And when do I make that

1 motion?

2 THE PRESIDENT: I will give you the opportunity
3 when we have finished considering amendments but before we
4 adopt the amendments of the Committee on Style.

5 DELEGATE WILLONER: Thank you, Mr. Chairman.

6 THE PRESIDENT: Are there any other amendments
7 to Section 1.05 as to style?

8 As to 1.06? 1.07? 1.08? 1.09? 1.10? 1.11?
9 1.12? 1.13?

10 Delegate Marvin Smith. Mr. President, we have
11 an amendment that has just been submitted on 1.12.

12 THE PRESIDENT: As to style?

13 DELEGATE MARVIN SMITH: As to style, yes, sir.
14 I will admit some mental reservations when I read it to you.

15 On line 42, at the beginning of the line we would
16 insert the words "arising out of". We would delete the
17 word "or", so that the section would read "No person shall
18 be imprisoned for debt, but an obligation created by a valid
19 decree of a court arising out of an agreement approved
20 by decree of a court for the support of a wife, or of
21 dependent children or of illegitimate children, or for

1 alimony, shall not constitute a debt within the meaning of
2 this section."

3 THE PRESIDENT: It does not seem to the Chair
4 that the amendment is one of style. It seems rather one of
5 substance. I think the time to offer it would be at a
6 later point.

7 Delegate Rybczynski.

8 DELEGATE RYBCZYNSKI: Many of us are concerned
9 about this 1.12. We do believe that it is a question of
10 style.

11 The problem, if I might suggest to the President,
12 is that the line 41 appears to hang by itself when in fact
13 it should not. It should somehow be tied into the support
14 of a wife or dependent children, or for the other things,
15 so that what we are afraid of is that line 41 might
16 possibly be read by a court some day whereby a person,
17 say found in debt under a mechanic's lien, might find
18 himself in jail. This is just a word or two.

19 I think Mr. Smith is right that it is a style
20 problem here.

21 THE PRESIDENT: Well, the problem may be one of

1 style, but the amendment suggested I think would go beyond
2 the question of style.

3 DELEGATE RYBCZYNSKI: I think you are right.
4 It would change it completely.

5 THE PRESIDENT: Delegate Kiefer.

6 DELEGATE KIEFER: I think the word that we are
7 searching for -- and I would have no objection to it whether
8 it is substance or style, Delegate Smith -- instead of
9 adding the words you suggested, "by a valid decree of a
10 court incorporating an agreement approved", and so forth.
11 That is what normally what happens. The court incorporates
12 the agreement in its decree, and that is what we are really
13 talking about.

14 THE PRESIDENT: Delegate Rybczynski, is that
15 the thought you had in mind?

16 DELEGATE RYBCZYNSKI: Yes, sir, but then I think
17 you would have to go down to line 43 and then add "or a
18 decree of a court for the support". You have to have
19 both, in other words.

20 THE PRESIDENT: Delegate Kiefer.

21 DELEGATE KIEFER: If I might answer that, it has

1 been held by the court of appeals that decrees for
2 alimony, decrees for the support of children, decrees
3 for the support of illegitimate children are within the
4 police powers and it is not necessary for jail or imprison-
5 ment to rest on this section.

6 It is only agreements incorporated into
7 divorce proceedings or agreements with respect to support
8 which a court incorporates into its decree. A strict
9 ruling by the court on its own is not necessary to be
10 protected under these circumstances.

11 THE PRESIDENT: Let the Court make this
12 suggestion. In any event (Laughter) -- I am sorry.
13 That is the first time I have made that slip I have been
14 conscious of, and I have been told I have made it at least
15 three times, and I am sorry.

16 Delegate Rybczynski, if I understand the point
17 you are making, it does not quarrel with any of the changes
18 submitted by the Committee on Style. It rather is a
19 further change, although it may be of style. If so, I
20 think it would be preferable to consider it separately
21 from the committee amendments. This will give you an

1 opportunity to struggle with language a little. I will
2 give you the opportunity later to consider it.

3 I am correct that you are not troubled by the
4 changes made by the Committee on Style in this section, you
5 are troubled by the fact that you don't think they have made
6 enough changes, is that right?

7 DELEGATE RYBCZYNSKI: No, sir. This line 41
8 really troubles me.

9 THE PRESIDENT: Yes, I follow your point.

10 Are there any other amendments to Section 1.13?

11 Delegate Willoner.

12 DELEGATE WILLONER: Mr. Chairman, I have an
13 amendment, I believe of style, to 1.13.

14 It is a committee amendment, and the mover of this
15 amendment when it was changed in the Committee of the
16 Whole -- it is Amendment R.

17 THE PRESIDENT: Delegate Willoner, I don't
18 believe that is an amendment of style, I believe it is
19 an amendment of substance. I will recognize you at the proper
20 time.

21 Are there any other amendments as to style as to

1 Section 1.14? 1.15? 1.16? Section 1.17? Section 1.18?

2 Delegate Dukes.

3 DELEGATE DUKES: I have an Amendment O which is
4 not directed to 1.18 but in effect would create a new 1.18
5 and renumber 1.18. Is that an amendment to 1.18?

6 THE PRESIDENT: It is not a style amendment, I
7 take it.

8 DELEGATE DUKES: Unnumbered Section 2 on page 5
9 would be moved in as a new Section 1.18, and it would
10 renumber 1.18.

11 THE PRESIDENT: You mean it just changes the
12 position of the section?

13 DELEGATE DUKES: It changes it from General
14 Provisions to the Declaration of Rights..

15 THE PRESIDENT: I don't think that is proper
16 at this time. I will recognize you.

17 Unnumbered section, beginning in line 5 on page 5
18 to Article 8, are there any style amendments?

19 Unnumbered section on page 5 beginning in line
20 13, any style amendments?

21 Delegate Dukes.

1 DELEGATE DUKES: Can you explain to me whether
2 the process of voting will be on the third reading with
3 respect to section by section or article by article?
4 What are we going to vote on on the third reading? What
5 constitutes the constitution of the majority?

6 THE PRESIDENT: The Chair proposes to submit
7 the entire constitution to the convention for consideration
8 and adoption, final adoption, on third reading article
9 by article.

10 When we get to the schedule of transitional
11 provisions and the schedule of legislation, they will be
12 submitted schedule by schedule.

13 Delegate Dukes?

14 DELEGATE DUKES: Can you also tell me now
15 whether or not --

16 THE PRESIDENT: Let me add something to that,
17 that in order to consider it in that manner it will be
18 necessary for the convention either to suspend or to change
19 Rule 59, I think it is, which requires section by section
20 consideration.

21 MR. DUKES: Can you also tell me whether

1 General Provisions will be a separate article by the time
2 it gets to us on third reading as a numbered section
3 similar to what would now be the article for the Declaration
4 of Rights?

5 THE PRESIDENT: Yes, there will be an article --
6 whether it will be called "General Provisions" or "General
7 Government", I am not sure. There will be some such
8 general article.

9 DELEGATE DUKES: And it will be voted on as
10 a whole?

11 THE PRESIDENT: That is correct.

12 DELEGATE DUKES: Then I will not offer my
13 amendment.

14 THE PRESIDENT: Very well.

15 Again I have to point out to you that this is
16 assuming the convention either changes Rule 59 or suspends
17 it.

18 DELEGATE DUKES: Yes, sir, I understand that.

19 THE PRESIDENT: Very well.

20 Apparently there are no amendments as to style
21 except for the desire of Delegate Willoner with respect to

1 Section 1.05.

2 The question therefore arises on the adoption
3 of the amendments to Committee Recommendation R&P-1 and
4 R&P-2 proposed by the Committee on Style other than those
5 with respect to Section 1.05 as to which a separate vote
6 has been requested.

7 Do you request a separate vote on 1.05, Delegate
8 Willoner?

9 DELEGATE WILLONER: I do, Mr. Chairman.

10 THE PRESIDENT: Are there any other sections
11 as to which any delegate desires to vote separately?
12 If not, the Chair will submit to you, first, for adoption
13 the amendments proposed by the Committee on Style
14 with respect to Section 1.05, and then, following that,
15 submit to you on one motion the amendments with respect
16 to all the other sections.

17 The Chair understands that Delegate Willoner
18 desires to oppose all of the recommendations of the Committee
19 on Style for amendments in Section 1.05. Is that correct,
20 Delegate Willoner?

21 DELEGATE WILLONER: That is correct, Mr. Chairman.

1 THE PRESIDENT: The Chair recognizes you to
2 speak to the question. The question will now arise on
3 the adoption of the Committee amendments recommended with
4 respect to Section 1.05. Delegate Willoner is speaking in
5 opposition to those amendments.

6 Delegate Willoner.

7 DELEGATE WILLONER: I may also say I am speak-
8 ing on behalf of our committee. In drafting this
9 particular section, we followed as closely as possible
10 the language of the Fourth Amendment to the Federal
11 Constitution.

12 The changes that have been made depart from
13 that, and, as has been pointed out earlier in the question-
14 ing period, amount to a substantive change.

15 One of the intents in drafting this as closely as
16 possible to the Fourth Amendment language of the Federal
17 Constitution was to drag along the cases that have
18 interpreted this language over the past two hundred years.
19 While it is quite true that you may be able to more
20 artfully draft this section, when this section has a
21 history of some two hundred years it is important to keep it

1 in as exact language as possible.

2 I might point out that the change "and to secure
3 against unreasonable interceptions" perhaps broadens this
4 much further than we intend to broaden it.

5 Since this language has no interpretation behind
6 it, it might prohibit the testimony of conversations made
7 in the presence of one individual. It could prohibit the
8 recording of a conversation -- this is permissible, for
9 example, where a police officer would go into an interview,
10 say, with a buyer of marijuana, and he would have this on
11 his own person as corroborative of the testimony. This
12 might conceivably prohibit that type of interception.

13 The language as drafted was extremely carefully
14 drafted and it was checked over by at least two con-
15 stitutional professors of law.

16 What happened was that "the right of the people
17 to be secure in their persons, houses, papers and effects
18 again unreasonable" is to be modified by "searches, seizures
19 and interception of their communications".

20 In other words, that "interceptions of communi-
21 cations" refers back to the first four categories of "person,

1 houses, papers and effects", and this is the language that
2 has been interpreted by the Supreme Court. We are really
3 expanding it in a sense to make their decision, as they have
4 decided this area, somewhat easier.

5 Then we have added "or other invasions of their
6 privacy" to include those concepts brought out since the
7 Berger case at the time we were discussing it, but apparently
8 the Katz case which has come down -- and unfortunately
9 this amendment was put in without me being able to get
10 ahold of the Katz case.

11 I understand the decision by Justice Black was
12 based on the idea that interception did not involve a
13 trespass. This would avoid this argument in that it
14 would go to things like a laser beam that might be able
15 to pierce a wall and photograph within a room what was
16 going on in that room where there was an intent to maintain
17 privacy, and that is why we wanted that "or other
18 invasions of privacy".

19 The other language that we criticize in the
20 change is "no warrant shall issue but upon probable cause",
21 which is classic language that has again come down to us.

1 The Committee I don't think intended to make a substantive
2 change, but I think they have made a substantive change
3 and I think it is important we return to the language that
4 was as carefully drafted as this language in this R&P
5 section.

6 THE PRESIDENT: I think before discussion
7 continues the Chair should make an explanatory comment
8 with regard to this section.

9 Most of the changes in the section recommended
10 by the Committee on Style were not in the original draft.
11 The Chair suggested to the committee that the change be
12 made because of the Chair's understanding of the debate
13 that had occurred when the committee report was presented
14 and belief that on the basis of that debate it was intended
15 to broaden the Fourth Amendment rights and to have a much
16 broader prohibition against interception of communication
17 and invasions, "other invasions of privacy", than would be
18 limited to persons, houses, papers and effects.

19 As Delegate Willoner has pointed out, the
20 committee did not intend to have this broader effect. They
21 intended the prohibition against interception of

1 communications and invasions of privacy to be limited to
2 the four things named in line 27.

3 Therefore, if that were the intention of the
4 Committee of the Whole also, the change by the Committee
5 on Style would indeed be a change of substance.

6 The question before you, therefore, is -- although
7 presented in terms of style -- a question of substance,
8 and you ought to have that clearly before you.

9 As the section was read previously, as it was
10 drafted previously, the prohibition against interception
11 of communications, and so forth, is narrower than it would
12 be under this section.

13 Delegate Bothe.

14 DELEGATE BOTHE: Mr. President, may I ask that
15 the question be divided between the first and second
16 sentence?

17 As to the first, I believe there may be a
18 substantive issue.

19 As to the second, it is merely a question whether
20 the federal language should be followed.

21 THE PRESIDENT: You mean as to the change in

1 lines 31 and 32?

2 DELEGATE BOTHE: That is right.

3 THE PRESIDENT: I think it can be divided.

4 You do not want to divide the first sentence
5 as between "interceptions of communications" or "invasions
6 of privacy", I take it.

7 DELEGATE BOTHE: No.

8 THE PRESIDENT: Very well. The question will
9 for purposes of discussion and voting then be divided.
10 The first question to be submitted to you will be whether
11 you adopt the recommendations of the Committee on Style
12 as to amendments suggested in lines 23 to 30, inclusive.

13 Delegate Kiefer.

14 DELEGATE KIEFER: Mr. President, as Delegate
15 Willoner has suggested, this is a committee recommendation
16 or amendment, but I do believe in light of what you said,
17 I wonder if the amendment wouldn't be clearer if we
18 eliminated the commas in line 11 and line 12 of the amend-
19 ment.

20 THE PRESIDENT: We don't have an amendment
21 before us. We are considering the section on page 2

1 as it is drafted.

2 DELEGATE KIEFER: Oh, then I would hope that
3 it would be rejected so we can make this correction.

4 THE PRESIDENT: I don't think you follow it,
5 then.

6 The matter now before you is whether or not to
7 adopt the amendment suggested by the Committee on Style
8 in Section 1.05, or at least that portion of it down to
9 and including line 30. A vote no would leave the language
10 the way it was.

11 Now, I don't know whether that leaves the commas
12 where you want them or not. You would have to tell me.

13 DELEGATE KIEFER: I don't believe that it
14 does. I think we might have to make that additional
15 correction.

16 THE PRESIDENT: What commas did you want to
17 change?

18 DELEGATE KIEFER: The language originally was
19 the "right of the people to be secure in their persons,
20 houses, papers and effects against unreasonable searches,
21 seizures, interception of their communications, or other

1 invasions of their privacy".

2 I would leave out the last two commas.

3 THE PRESIDENT: The last two meaning the
4 comma after "communications"?

5 DELEGATE KIEFER: And "privacy".

6 THE PRESIDENT: That I should think would come
7 by separate amendment, then.

8 Is there any further discussion?

9 Delegate Marion.

10 DELEGATE MARION: Just as a question of
11 information, Mr. President, does the first half of the
12 amendment or the question as divided involve the title
13 of the section and the number of the section as proposed
14 by the Committee on Style?

15 THE PRESIDENT: I understood Delegate Willoner's
16 motion to go to the title to restore the words "right to
17 privacy".

18 Is this correct?

19 DELEGATE WILLONER: No, Mr. Chairman.

20 THE PRESIDENT: Very well, then the amendment
21 would be considered as limited to the portion of Section

1 1.05 embraced in lines 26 to 30, inclusive.

2 Is that correct, Delegate Willoner?

3 DELEGATE WILLONER: Yes.

4 THE PRESIDENT: I had assumed the contrary
5 simply because the amendment had restored the old title
6 and I thought it was what you wanted.

7 DELEGATE WILLONER: I didn't even notice that,
8 frankly.

9 THE PRESIDENT: All right. Is there any further
10 discussion?

11 Delegate Bennett.

12 DELEGATE BENNETT: Mr. Chairman, members of the
13 Convention, I hope that the amendment of Delegate Willoner
14 will be voted down.

15 The recommendation of the Committee on Style is
16 a compromise between those of us who wanted to outlaw
17 completely all interceptions of communications and all
18 invasions of privacy, and if it remains as it is in the
19 Committee on Style, I think the courts will know what we
20 have in mind and construe the word "unreasonable" or
21 "unreasonable interceptions" with discretion.

1 This is a fundamental point, I think, in the whole
2 constitution, Mr. Chairman, whether we are going to actually,
3 as in the New York Constitution and many others, outlaw
4 completely interceptions of communications, wire tapping,
5 and other invasions of privacy, and I think the Committee
6 on Style has done a most commendable job.

7 THE PRESIDENT: Is there any further dis-
8 cussion?

9 Delegate Henderson.

10 DELEGATE HENDERSON: I hope that the amendment
11 will prevail. It seems to me that it would be most
12 unfortunate to have built up in this state two bodies of
13 law dealing with the same subject matter, one based
14 on the federal decisions and the other on state decisions.

15 The only way that we can keep the two in accord,
16 it seems to me, is to adopt the precise language of the
17 Federal Constitution, as we have done in virtually all
18 the other sections.

19 We have not attempted, for example, to rewrite
20 the question about due process of law and equal protection,
21 and by adopting those phrases we have adopted the gloss put

1 upon them by the Supreme Court.

2 Now, we know that this field of law is in a
3 particular state of flux. The recent decision only
4 last week by the Supreme Court, where they extended the
5 doctrine in one direction but withdrew it in another to
6 some limited extent to permit action by search through court
7 procedures, illustrates the point that I am trying to make.

8 It would be most unfortunate to have two bodies
9 of law in this field, and the only way, it seems to me,
10 that we can keep in step completely with the Supreme Court
11 and the holdings of that body which construe authoritatively
12 the Federal Constitution is to adopt the same language,
13 and I hope that this will be the conclusion of this com-
14 mittee.

15 THE PRESIDENT: Delegate Hardwicke.

16 DELEGATE HARDWICKE: Mr. President, I would like
17 to ask a question of Chairman Kiefer, if I may, please.

18 THE PRESIDENT: Delegate Kiefer, will you take
19 the floor to yield to a question?

20 DELEGATE KIEFER: Yes.

21 THE PRESIDENT: Delegate Hardwicke.

1 DELEGATE HARDWICKE: For the purpose of clarify-
 2 ing the two issues that are before this convention, first
 3 of all "shall not be violated" in line 31 means not only
 4 shall not be violated by the government or by the state, but
 5 also shall not be violated by private individuals, is that
 6 correct?

7 THE PRESIDENT: Delegate Kiefer.

8 DELEGATE KIEFER: I think that is a hooker.

9 No, not necessarily. We are talking about
 10 personal rights here, Delegate Hardwicke. We are talking
 11 about the framework of government. We are talking about
 12 a situation where we are establishing certain basic rights
 13 that no government can take away from its people. We are
 14 not talking about individuals versus individuals, so this
 15 does not apply to individuals.

16 THE PRESIDENT: Delegate Hardwicke.

17 DELEGATE HARDWICKE: Then, Mr. Chairman, you
 18 mean then "shall not be violated", and it is implicit that
 19 this means by the state?

20 THE PRESIDENT: To make your question more
 21 pointed, when you use "state" you don't limit that necessarily

1 to the state, you mean any governmental agency or state
2 agency?

3 DELEGATE HARDWICKE: Yes, Mr. President.

4 THE PRESIDENT: Delegate Kiefer.

5 DELEGATE KIEFER: Are you asking me? What
6 are you asking me?

7 THE PRESIDENT: Delegate Hardwicke.

8 DELEGATE HARDWICKE: I am asking you whether
9 or not when we read "shall not be violated", we should
10 in our own mind understand that that means "shall not be
11 violated by the state or any of its instrumentalities or
12 agencies"?

13 THE PRESIDENT: Delegate Kiefer.

14 DELEGATE KIEFER: Certainly, that is my under-
15 standing of what the Fourth Amendment does and it is my under-
16 standing of what we are doing here by the present
17 Declaration of Rights.

18 We are not adding anything here with respect
19 to individuals versus individuals. That gets away completely
20 from the concept of what a Bill of Rights is.

21 THE PRESIDENT: Delegate Hardwicke.

DELEGATE HARDWICKE: May I ask a second question of Delegate Kiefer?

THE PRESIDENT: Proceed.

DELEGATE HARDWICKE: Delegate Kiefer, as I understand the point that was made by Delegate Willoner, if we accept the Committee on Style and Drafting's recommendation with regard to taking and to be secure against unreasonable interceptions of their communications and place it separately in this line, it then will not relate back to "persons, houses, papers and effects", and is thus a broader guarantee, is that correct?

DELEGATE KIEFER: You might want to direct that question to Delegate Willoner, but that is my understanding. We want the "unreasonable invasion of privacy" to relate back to the first four items which the President in his explanation stated.

I think President Eney stated the position of the committee accurately, and I don't think there is any question about that, and I think that is why Delegate Willoner made the amendment for the purpose of getting back to what the committee's original understanding was or is.

1 THE PRESIDENT: Delegate Willoner, would you take
2 the floor to respond further to Delegate Hardwicke's question?

3 DELEGATE WILLONER: The question is somewhat
4 difficult to answer, because it obviously would have to
5 refer back at least to "persons".

6 The problem that we are confronted with here is
7 that there has been some argument that an interception of
8 communication is not a search or seizure, so it was to
9 expand the concept of searches and seizures to include --
10 and that is where it is comma "and interception of their
11 communications", because the three categories, "searches,
12 seizure and interceptions" have always been tied in with
13 invasions of privacy, and that was the purpose of it.

14 The purpose of the amendment, according to
15 Chairman Eney, was to broaden this, to broaden it beyond
16 "persons, houses, papers and effects". I am not quite
17 sure how he contemplated that.

18 The difficulty, as I see it, Delegate Hardwicke,
19 is simply that there are areas where you may have an
20 interception of a communication which is perfectly
21 admissible in evidence where it does not involve another

1 invasion of one's privacy, and that is the area that we
2 are seeking to protect, or I should say not seeking to
3 protect but we want to keep it open so there can be still
4 certain types of evidence admissible in court that have been
5 in the past.

6 THE PRESIDENT: Delegate Hardwicke.

7 DELEGATE HARDWICKE: Mr. President, may I speak on
8 the amendment briefly?

9 THE PRESIDENT: You may.

10 DELEGATE HARDWICKE: Mr. President, I am some-
11 what disturbed by the comment of the chairman of the
12 committee with regard to my first question.

13 I really and truly do not see how you can have
14 this language limited to action by the state. It simply
15 says that this right shall not be violated. It is not
16 on the face of it limited to actions by the state. I think
17 that it is pointed up even more when we separate "secure
18 against unreasonable interceptions" from the "persons, houses,
19 papers and effects", that it is not limited to actions by
20 the state.

21 It seems to me that if we pass Section 1.05 either

in the form suggested by the Committee on Style and Drafting or in the form suggested by the Committee on Personal Rights and Preamble, either way I believe that you are going beyond the right vis-a-vis the state.

THE PRESIDENT: Is there any further discussion? Delegate Clagett.

DELEGATE CLAGETT: Would Delegate Hardwicke yield to a question?

THE PRESIDENT: Delegate Hardwicke, do you yield to a question?

DELEGATE HARDWICKE: If it is in order, Mr. President.

THE PRESIDENT: You still have two minutes. Delegate Clagett.

DELEGATE CLAGETT: Delegate Hardwicke, if you revert back to Section 1.01, isn't it made clear there that persons, in the sense that you are referring to individuals, specifically remain responsible for any abuse of the rights there being protected on behalf of persons against invasion by the state or any of its instrumentalities

1 or agencies, so therefore would we not have to be consistent
2 with respect to Section 1.05 that it applies only to
3 restrict the state or its agents or instrumentalities?

4 THE PRESIDENT: Delegate Hardwicke.

5 DELEGATE HARDWICKE: I understood the question,
6 but I don't see that that construction is required. It
7 seems to me that we have in one or two instances here set
8 forth rights that are not rights vis-a-vis the government
9 of the state, and I think that the way 1.05 is being
10 considered right now that this first sentence will create
11 such a right notwithstanding your point.

12 If I am amiss, then I would appreciate further
13 comment from you, Delegate Clagett, or the Chair.

14 THE PRESIDENT: Delegate Bothe.

15 DELEGATE BOTHE: Mr. President, the Chairman's
16 answer to the question as to whether the language of 1.05
17 would apply to private individuals disturbs me, and even
18 more so Delegate Hardwicke's comment that the proposed
19 language might go beyond the intention of the convention.

20 I would call to the attention of the convention
21 that the language of the first sentence insofar as it does

not refer to the state but simply points out that the right shall not be violated is exactly the language of the Fourth Amendment to the United States Constitution.

So far, that language has been construed to apply only to state action. However, there have been developments in the law which may in the future make the Fourth Amendment, and hence I would say the language of the Maryland Constitution, applicable to some aspects of conduct between private individuals, and I would suppose that the State of Maryland would want to go along with the trend of the Fourth Amendment however that may be construed.

THE PRESIDENT: Is there any further discussion?

Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. President and members of the Convention, as a member of the Committee on Personal Rights and Preamble, it was my understanding when we recommended Section 1.05 in its original form coming out of that committee that this applied only to actions by the state, its subdivisions, municipalities, and other agencies and in no wise applied to any actions between private

1 individuals.

2 Secondly, it was my distinct understanding,
3 Mr. President, that the word "unreasonable" found in lines
4 27 and 28 applied so as to read "unreasonable searches,
5 unreasonable seizure, unreasonable interceptions of their
6 communications, unreasonable other invasions of their
7 privacy", so that I think that that was our committee's
8 intent, it was our understanding, and I think that the
9 amendment to strike the subsequent amendments of the Committee
10 on Style should be carried through.

11 I agree with Delegate Henderson that in order to
12 have our language conform as nearly to the federal language,
13 where we have a body of federal law on it, that our state
14 law should run along the same course.

15 THE PRESIDENT: Is there any further discussion?

16 Delegate Bennett.

17 DELEGATE BENNETT: A parliamentary inquiry, sir.

18 When you referred to the fact that this language
19 on style carried out the wishes of the committee, you were
20 referring to the wishes of the Committee of the Whole,
21 were you not?

1 THE PRESIDENT: That is correct, it carried
2 out what the Chair understood and recollected as the result
3 of the colloquies which occurred in the discussion in the
4 Committee of the Whole. I was not referring to the
5 intention of the Committee on Personal Rights.

6 DELEGATE BENNETT: And if, Mr. Chairman, this
7 amendment should be adopted, it would be contrary to the
8 understanding of the Committee of the Whole?

9 THE PRESIDENT: I can't say that. It would be
10 contrary to what I thought was the understanding of the
11 Committee of the Whole, but that is for this body to decide,
12 and what the understanding of the Committee of the Whole
13 might have been is not controlling now, it is what the
14 Convention wants to do.

15 Are you ready for the question? The Clerk will
16 ring the quorum bell.

17 Delegate Willoner.

18 DELEGATE WILLONER: So it is clear what happened,
19 since some members indicate they want to vote for it,
20 will you please point out that a vote no --
21

1 THE PRESIDENT: I will restate the question as
2 soon as people have responded to the quorum bell.

3 The question arises upon the adoption of the
4 committee amendments to Section 1.05 as set forth in lines
5 28, 29 and 30 on page 2.

6 A vote aye is a vote in favor of the amendment
7 suggested by the Committee on Style. This in effect,
8 then, is a vote against the recommendation of the Committee
9 on Personal Rights. A vote no is a vote against the
10 recommendations of the Committee on Style, would restore
11 the language to the form in which it was submitted by the
12 Committee on Personal Rights, and therefore in effect is a
13 vote in favor of the recommendation of the Committee on
14 Personal Rights.

15 A vote aye favors the recommendation of the
16 Committee on Style, a vote no favors the recommendation
17 of the Committee on Personal Rights.

18 Are you ready for the question? Very well,
19 cast your votes.

20 (Whereupon, a roll call vote was taken.)

21 THE PRESIDENT: Has every delegate voted?

1 Does any delegate desire to change his vote?

2 Delegate James Clark.

3 DELEGATE JAMES CLARK: I vote no.

4 THE PRESIDENT: Delegate Clark votes no.

5 The Clerk will record the vote.

6 There being 20 votes in the affirmative and 92 in
7 the negative, the motion is lost. The amendment proposed
8 by the Committee on Style in lines 28, 29 and 30 on page 2
9 are rejected.

10 Delegate Willoner, do you now desire to take
11 action or speak to the amendments proposed in this same
12 section by the Committee on Style in lines 31 and 32?

13 DELEGATE WILLONER: Mr. Chairman, having I
14 believe at one time or another read every Supreme Court
15 case in this area, and not being able to remember whether
16 or not this change of language would mean a change in
17 substance, I can't honestly say.

18 I would only say to the body that it has not been
19 checked, and the change may be a change in substance. I
20 don't honestly know.

21 I would continue to vote against the committee

1 recommendation --

2 THE PRESIDENT: Do you desire to submit it
3 separately, then?

4 DELEGATE WILLONER: Yes.

5 THE PRESIDENT: Very well. The question now
6 arises upon the adoption of the recommendations of the
7 Committee on Style as contained in lines 31 and 32 on page 2.

8 Is there any discussion? Are you ready for the
9 question? A vote aye is a vote in favor of the recommenda-
10 tions of the Committee on Style in lines 31 and 32 on
11 page 2. A vote no is a vote against.

12 Cast your vote.

13 (Whereupon, a roll call vote was taken.)

14 THE PRESIDENT: Has every delegate voted? Delegate
15 James Clark?

16 DELEGATE J. CLARK: Aye.

17 THE PRESIDENT: Delegate James Clark votes aye.

18 Has every delegate voted? Does any delegate
19 desire to change his vote? Delegate James.

20 DELEGATE JAMES: I don't quite understand how to
21 vote on this issue. Is a vote aye to strike out the

1 Committee amendments?

2 THE PRESIDENT: A vote aye is a vote which would
3 be in favor of the recommendations of the Committee on
4 Style, so that the sentence in line 31 would read, "No
5 warrants shall be issued except upon probable..." A vote
6 no would leave the language the way it was before those
7 amendments were made.

8 Delegate Bothe.

9 DELEGATE BOTHE: I simply wanted to point out, as
10 I hear some confusion around me, that a vote against the
11 Committee on Style recommendation would place the language
12 in conformity with the Fourth Amendment to the United States
13 Constitution.

14 THE PRESIDENT: Does any delegate desire to change
15 his vote? The clerk will record the vote.

16 There being 47 votes in the affirmative and
17 70 in the negative, the motion is lost. The amendments
18 are rejected.

19 The question now arises upon the adoption of the
20 amendments suggested by the Committee on Style in
21 Committee Recommendation R&P-1 and R&P-2 with respect to

1 all sections other than Section 1.05, but including the
2 change in the caption on Section 1.05. lines 23 and 24, on
3 page 2.

4 A vote aye is a vote in favor of these Style
5 amendments; a vote no is a vote against.

6 For what purpose does Delegate Rybczynski rise?

7 DELEGATE RYBCZYNSKI: I want to make sure this
8 1.12 amendment doesn't slip by.

9 THE PRESIDENT: Do you have it?

10 DELEGATE RYBCZYNSKI: I believe Delegate Smith
11 had the thing worked up.

12 THE PRESIDENT: Delegate Smith.

13 DELEGATE M. SMITH: It is in the process, Mr.
14 Chairman. I don't know whether you call it style, or
15 whether you call it substance. I thought you had held it
16 to be substance.

17 THE PRESIDENT: What I said was it was an amend-
18 ment perhaps of style but it did not pertain directly to
19 the amendments submitted by the Committee. If that is
20 still the case, it is not necessary to put it now. You
21 will have the opportunity.

1 Are you ready for the question? The question
2 arises on the approval of the recommendations of the
3 Committee on Style as to all sections of Committee
4 Recommendation R&P-1 and R&P-2 except Section 1.05 but
5 including the caption of Section 1.05. A vote aye is
6 a vote in favor of the amendments submitted by the
7 Committee on Style; a vote no is a vote against. Cast
8 your votes.

9 (Whereupon, a roll call vote was taken.)

10 THE PRESIDENT: Has every delegate voted?
11 Delegate James Clark?

12 DELEGATE J. CLARK: I vote aye.

13 THE PRESIDENT: Does any delegate desire to
14 change his vote? The clerk will record the vote.

15 There being 114 votes in the affirmative and one
16 in the negative, the motion is carried. The amendments
17 are adopted.

18 Delegate Marvin Smith, if you could be having
19 somebody type up your memorandum while we are considering
20 other sections, I think it would be very helpful.

21 DELEGATE M. SMITH: It is in process, Mr.

1 President.

2 THE PRESIDENT: Thank you, sir.

3 Delegate Hopkins.

4 DELEGATE HOPKINS: Personal privilege.

5 THE PRESIDENT: State the privilege.

6 DELEGATE HOPKINS: I know that the delegates will
7 want to welcome the wife and children of Delegate Hostetter
8 who are in the balcony behind the rostrum, his wife Edie,
9 and his children Elsa, Lisa, Leslie, Carla, Edie White and
10 Eddie, the twins, and their little friend Cathy Pickens.
11 (Applause.)

12 THE PRESIDENT: Delegate Bennett.

13 DELEGATE BENNETT: I would like the convention
14 to welcome my treasurer, who is in the balcony not having
15 absconded with the \$2.50 still remaining in my account, my
16 daughter Anne Humbert and her two children. (Applause.)

17 THE PRESIDENT: I think it might be worthwhile
18 at this break to indicate what the plan is for today and
19 tomorrow, if necessary.

20 I think, as you can readily see from consideration
21 of the agenda, that it simply is not at all possible to

1 finish everything on the agenda this afternoon. It is
2 therefore imperative that there be a session tonight.
3 How late the session will extend I think depends on what
4 progress we make. I hope that we would not have to have
5 a session tomorrow. I am not at all sure that we can
6 finish even by sitting very late tonight. If we cannot,
7 we will sit as late as it is reasonably profitable to do
8 so, and then have a session tomorrow.

9 There have been committee meeting arranged for
10 tomorrow, particularly a meeting with the legislative
11 liaison group in connection with the schedule of transitional
12 provisions and schedule of legislation, that cannot be
13 postponed, so that if we have a session tomorrow it would
14 probably start at twelve o'clock.

15 Because of the fact that if we have a schedule
16 tomorrow we certainly would not want to continue it any
17 later than necessary, I would hope that we could continue
18 tonight to a rather late hour in order to get as much
19 behind us as we possibly can, and if there is a prospect
20 of completing the entire agenda, I would propose to sit
21 quite late tonight in order to do so.

1 Now, we can only tell this as time goes on.
2 I have had notes sent to me at the desk suggesting that
3 the delegates, some at least, would prefer not to have a
4 lunch hour break which we contemplated for somewhere around
5 two to about three. As far as I am personally concerned,
6 this would be fine, except that I am inclined to think it
7 would be unwise. I think if we continue without a break
8 of any kind from twelve until half past six, it is not
9 only very tiresome but apt not to be fruitful. I think a
10 short break in the mid-afternoon would be well worthwhile.

11 However, if there is any strong feeling for not
12 having that and you would indicate now to me just by a
13 show of hands, we could consider it.

14 If any feel strongly that we should continue
15 uninterruptedly without the usual break for lunch, until
16 6:30 or so, just indicate by hand.

17 Delegate Gill.

18 DELEGATE GILL: I suggest that we break at five
19 for dinner.

20 THE PRESIDENT: The difficulty about that, Dele-
21 gate Gill, is that the evening session then becomes just as

1 prolonged, and I don't think that the stamina of anyone is
2 as good in the long haul in the evening as it otherwise
3 would be. I don't think we accomplish anything, really,
4 by having a five-hour session this afternoon and a six or
5 seven-hour session this evening.

6 How many delegates would prefer not --
7 Delegate James?

8 DELEGATE JAMES: Mr. Chairman, would it be a
9 good idea -- we have reached a good breaking point -- to
10 break now until 2:30, and then go until six, break for an
11 hour and a half and come back at 7:30?

12 THE PRESIDENT: I am not sure I followed you.

13 DELEGATE JAMES: Break at six and come back at
14 7:30 for a long evening session. I thought we could
15 break now until 2:30.

16 THE PRESIDENT: Well, we have only been in session
17 a little over an hour. I had planned to break at about two.

18 DELEGATE JAMES: I am trying to cut the break
19 a little short so we can get in more time. If we come back
20 at 2:30, we would have more time.

21 THE PRESIDENT: How many want to disregard the

1 break in the afternoon completely?

2 I think there are about a third, which would
3 indicate that something less than two-thirds favor the
4 other way. Let's go on for a little while and see how
5 we do.

6 Let me take this further opportunity, however, to
7 urge this upon you. I am fully mindful of the fact that
8 this is the time of the year when the last thing in the
9 world any of us want is to be grinding away on the very
10 tough assignment that we have down here. All of us would
11 certainly like to get a break for two or three days over the
12 New Year's holiday.

13 I just don't see how it is possible for us to
14 recess until we have concluded consideration of all the
15 second readings this week. It seems to me we would be taking
16 a great deal of chance if we did that. I think we have to
17 move along.

18 Now, that being the case, and because second
19 readings are so terribly important -- this is your last
20 chance to make any changes -- I urge all delegates to be
21 present at all sessions today, tonight, and tomorrow, if

1 necessary.

2 The next amendment that the Chair has under the
3 rule is Amendment T by Delegate Koger.

4 Do you desire to offer the amendment, Delegate
5 Koger?

6 DELEGATE KOGER: Yes.

7 THE PRESIDENT: Will the pages please distribute
8 Amendment T. This will be Amendment No. 1. The Clerk
9 will read the amendment.

10 MR. QUILLEN: Amendment No. 1 to Committee
11 Recommendations R&P-1 and R&P-2, as amended by Report No.
12 S&D-9, by Delegates Koger, Gallagher, Grant, Moser, Stern,
13 Burgess, Gilchrist, Rollins, J. Clark, Morgan, Freedlander,
14 Fox, Frederick.

15 On page 1 in the Preamble in line 10 after the
16 word "liberty," add these words:

17 "economic opportunity".

18 THE PRESIDENT: The amendment is submitted by
19 Delegate Koger, seconded by the other sponsors. The
20 Chair recognizes Delegate Koger.

21 DELEGATE KOGER: Mr. Chairman, ladies and

1 gentlemen of the Convention, I am asking you to include
2 in the Preamble, "economic opportunity", so that it would
3 read, "To secure their right to life, liberty, economic
4 opportunity, and the pursuit of happiness."

5 This weekend, I thought of my task of asking
6 this Convention to add to an already completed Preamble this
7 promise of economic security, as an objective of future hopes
8 and aspirations. I thought of the great leadership given
9 this committee by Delegate Kiefer, and the despair he must
10 have felt when the recommendation was rejected. I thought
11 of the loving and studious care given this Preamble by
12 Delegate Beachley; I thought of all the research and
13 information presented so eloquently by Delegate Mitchell;
14 I, indeed, felt the hopelessness of my task.

15 As you know, I opposed the recommendation when
16 it was first presented, and I said that we could not
17 enforce the recommendation because it promised a welfare
18 state, and so I disapproved of it. I said it could be a
19 haven for lost hope, lack of industry, and lack of ambition.

20 Reading late, trying to find some pearl of
21 wisdom to give me courage and inspiration, I ran across

1 these words of Emerson: "There is no defeat except from
2 within. There is really no insurmountable barrier save
3 your own inherent weakness of purpose."

4 I believe, I sincerely believe, that we cannot
5 mandate security and welfare. America is successful and
6 operates under the capitalistic system. You are taught,
7 and it is true, that if you work hard, learn, practice, be
8 honest, save, initiate, you may grow rich and prosperous.
9 Horatio Alger-like stories inspired me as a child to foster,
10 to try to look forward, to dream and persevere. This is the
11 only thing that keeps us going. It is the thing that makes
12 America great, that makes Americans different. We must
13 keep faith in our country and the belief that right will
14 prevail.

15 We need not fear revolution, as the evolutionary
16 forces work great change in the method and manner of
17 living and obtain the best in man's pursuit of life,
18 liberty, economic opportunity, and happiness. Our age has
19 two forces: capital and labor, and they constitute the
20 main wheels in American machinery. They enjoy success in
21 exact ratio to the extent that both apply the Golden Rule.

1 Capital and labor are essential to each other.

2 Delegate Mitchell said that the rich are growing
3 richer and the poor poorer; that automation had created a
4 condition like that of the Industrial Revolution. She said
5 that some people reside in barren regions of Appalachia;
6 others eke out but an existence in dust bowls and in congested
7 urban hovels. Difficulties are hard to settle. This may
8 be true, but it is also true that living conditions of the
9 poor are constantly improving. He has conveniences and
10 comforts that only Kings could command one hundred years ago.
11 He is better clothes, housed, and travels about with
12 greater ease. Capital opens new avenues to labor, and labor
13 organizes and constantly gives capital new challenges.
14 People today have many things to inflame their passions. They
15 will not listen to reason. Many are blind to their own
16 interest. People march. People threaten. Some blame the
17 war, others blame racial discrimination. Yet we cannot
18 take away half of what one person makes and give it to
19 another who feels he doesn't have to work. This is the
20 welfare state. This may be the danger of the mandated
21 gift of economic security.

1 Labor is the arm and capital is the blood. Take
2 the blood, the arm is useless. Do not hold out to people
3 even a policy of a welfare state.

4 Little has been done heretofore by the government
5 to develop business enterprise and cultivate commercial
6 talents. But through the Office of Economic Opportunity,
7 under the Small Business Administration and other "On the
8 Better Job" trainee programs, the Federal and State Govern-
9 ments are making changes. Better housing, shorter hours,
10 speedy transportation, higher wages, improved schools -- all
11 opportunities to get ahead, are on the way. Capital knows
12 it cannot succeed without helping the general economic
13 life of the country.

14 Black's Law Dictionary defines a Preamble as
15 a clause at the beginning of the constitution that explains
16 the reasons for its enactment, a policy citing objectives
17 sought to be accomplished. Our Preamble need only to say,
18 to make it more perfect, "to secure their right to life,
19 liberty, economic opportunity, and the pursuit of happiness."
20 These are the ideals upon which our Constitution may be
21 founded. The policy, firemen, and health departments

1 protect us from injury, disease and deaths daily. We are
2 at liberty to speak, to read, to worship and to make our
3 own laws.

4 THE PRESIDENT: You have three-quarters of a
5 minute.

6 DELEGATE KOGER: Thank you, sir.

7 As long as we don't hurt anyone else, or break
8 any laws, we are free to do things that will bring us the
9 most happiness. We should therefore strive for greater
10 creature comforts, adequate schools, safe transportation,
11 healthy children, serene old age -- all the fruits of
12 economic opportunity.

13 Finally, I hope this convention, writing this
14 great constitution, will see fit to broaden the Preamble
15 so that it will read "to secure their right to life,
16 liberty, economic opportunity, and the pursuit of happiness."

17 Thank you.

18 THE PRESIDENT: Delegate Kiefer.

19 DELEGATE KIEFER: Mr. President, ladies and
20 gentlemen of this Convention, I rise to oppose this amend-
21 ment, and I hope that you will vote against it.

1 I do not oppose the fine attitude and remarks
2 of Delegate Koger, but I will say to you, ladies and
3 gentlemen, this committee worked long, hard and arduously
4 to prepare what we thought was a complete and all inclusive
5 preamble that set up a philosophy, and we have done so.

6 Now, we can add economic security, we can add
7 freedom of religion, free public education -- we can add on
8 and on and on. We have covered it, we have covered it
9 thoroughly. We have a preamble I think we can be proud of.
10 I ask you at this late hour please not to tamper with it
11 and therefore urge that you reject this amendment.

12 THE PRESIDENT: Is there any other discussion?
13 Are you ready for the question? The Clerk will ring the
14 quorum bell.

15 The question arises on the adoption of Amendment
16 No. 1. A vote aye is a vote in favor of the amendment,
17 a vote no is a vote against.

18 Cast your vote.

19 (Whereupon, a roll call vote was taken.)

20 THE PRESIDENT: Has every delegate voted?

21 Delegate James Clark.

1 DELEGATE CLARK: I vote aye.

2 THE PRESIDENT: Delegate James Clark votes aye.

3 Does any delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being 59 votes in the affirmative and 56
6 in the negative, the motion is carried. The amendment
7 is adopted.

8 THE PRESIDENT: Delegate Willoner, do you desire
9 to offer your Amendment L?

10 DELEGATE WILLONER: Yes, Mr. Chairman, if now is
11 the time to bring up Amendment L.

12 THE PRESIDENT: Pages will distribute Amendment
13 L -- L for love. This will be Amendment No. 2.

14 The Clerk will read the amendment.

15 MR. QUILLEN: Amendment No. 2 to Committee
16 Recommendation R&P-1 and R&P-2 as amended by Report No.
17 S&D No. 9 by Delegate Willoner and others.

18 On page 2 immediately preceding Section 1.06,
19 Grand Jury Indictment add the following new section:

20 "Section 1. Criminal Jury, Judge of Law and
21 Fact.

1 "In the trial of all criminal cases, the jury
2 shall be the judges of the law, as well as of fact, except
3 that the court may pass upon the sufficiency of the evidence
4 to sustain a conviction."

5 THE PRESIDENT: The amendment submitted by
6 Delegate Willoner and seconded by the co-sponsors, the
7 Chair recognizes Delegate Willoner.

8 DELEGATE WILLONER: Mr. Chairman, this is something
9 that has had much debate, and I don't intend to debate it
10 again except that at the last vote it failed by two votes
11 and three very prominent people in this Convention were
12 absent at the time -- I should say it failed by two votes,
13 and three very prominent people who wanted to have a say
14 on this matter, which would have resulted in it being
15 included in the constitution, were unable to do so.

16 As I have explained several times, and there are
17 several people in this body who thought this was something
18 that should have gone out because it was archaic, but
19 it has been developed that this has meaning in our judicial
20 system today, that it prevents three things, at least three
21 things, as far as we can determine, prohibiting judges from

1 directing verdicts of guilty, it prevents blackjack
2 instructions, and permits inconsistent verdicts, practices
3 which have grown up in our state and practices that should
4 not be changed without a great deal of research and thought.

5 The opponents of this have never made that
6 research, have never told us what it would mean, and there-
7 fore we, the sponsors of this amendment, wish it to be
8 included in the present constitution.

9 It is a right that has been a right of the people
10 of this state since Maryland has been in existence, and we
11 feel this should not be changed without a great deal of
12 research and study to see how it would affect the laws of
13 Maryland.

14 There are probably 50 or 60 annotations behind
15 this particular provision. There are three major objections
16 to it. Two of them have no merit at all, one is that it has
17 prevented development of criminal law in this state. This
18 problem -- and please listen to this, because several
19 lawyers honestly believe that it has and it did up until
20 1950 when it was amended and the clause "the court may pass
21 upon sufficiency of the evidence to sustain a conviction"

1 was added.

2 That language has permitted the court of appeals
3 to develop what evidence is necessary to establish what a
4 prima facie case is in a particular crime.

5 Secondly, it is argued that the jurors can't
6 understand when the lawyers argue law to them. This is a
7 very, very rare occurrence when the law really gets litigated.
8 This is not the purpose of keeping it in to permit the
9 lawyers to argue except in the rarest of cases.

10 The point is that it prevents the judge from
11 directing verdicts, a fear that I don't particularly have
12 myself, but it does prevent the judges from blackjack
13 verdicts, and the federal law in this area permits black-
14 jack verdicts today, the last thing the Supreme Court has
15 said on it.

16 I have not checked the other 50 jurisdictions,
17 nor have the opponents of this. We do know that
18 Massachusetts permits directed verdicts. I don't know
19 what other states do. The majority rule seems to be that
20 they don't permit directed verdicts.

21 This is an important right of our state. It should

1 not be changed without knowing what we are doing, and I suggest
2 that we leave it in.

3 THE PRESIDENT: Delegate Kiefer.

4 DELEGATE KIEFER: Mr. Chairman, Mr. President,
5 ladies and gentlemen, I am not sure about my batting
6 average, but one motto I have gone by for the last three
7 months I am going to quote to you, illegitimus non carbo-
8 rundum esta, and I continue to go by that, bloody but
9 unbowed.

10 This is an old relic that goes back 500 years,
11 before the Revolution when judges were ignorant and didn't
12 know what it was all about and peers were allowed to decide
13 the law.

14 I believe the most telling argument made against
15 this particular old, ancient rule is simply this, that a
16 person in a criminal action is entitled to be tried with
17 the true law, or with the law established.

18 Now, under this, a defendant's lawyer, a clever
19 defendant's lawyer can argue whatever he wants and, as I
20 think Delegate Carson pointed out, an equally clever
21 prosecutor can put out whatever he wants, and the jury

1 is left in the middle. I just don't think that, being
2 the only state in the union to have this archaic law,
3 we should continue it. I don't think that the argument
4 that was made is a valid argument.

5 The argument made before our committee was
6 that it gives the defendant one last chance to have some
7 opportunity to get off because of his attorney being
8 able to argue the law. I don't particularly feel strongly
9 about it personally. I am not a criminal lawyer. It
10 just seems to me it is archaic, and that in view of recent
11 rulings it has no proper place in our Declaration of Rights.

12 I want also to point out that we did do research
13 on this. Delegate Willoner has used the term "blackjack"
14 a number of times here. He has not defined what "black-
15 jack" means. It seems as though it is something sinister
16 if we conduct our criminal procedure the same way as
17 the other 49 states, but I don't believe this is so.

18 We in our investigations have determined very
19 conclusively that a court can't direct a verdict of
20 guilty against the defendant, and that it never does
21 happen.

1 I therefore believe we should continue our same
2 course of action and reject this amendment.

3 THE PRESIDENT: Delegate Marvin Smith.

4 DELEGATE MARVIN SMITH: Mr. President, I did not
5 speak on this matter when it was before the Convention
6 previously. There have been statements made here that are
7 just not in line with the practice as I know it from the
8 standpoint of the trial of criminal cases.

9 I don't know how many I have tried over the period
10 of the last 22 years, but a substantial number. Never
11 have I had the experience in a small town, in a small
12 county, of a juror coming up to me and saying "We did not
13 understand the law that you lawyers were putting to us", but,
14 Mr. President, I have had the experience of the jurors
15 coming up to me and saying in a civil case, "We do not or
16 did not understand the instruction of the court to the
17 jury."

18 The experience, as I have known it, has not been
19 getting together a mass of out-of-state decisions or anything
20 of that sort. Usually it has been reading from Hocheimer
21 on Criminal Law, which is the bible, the handbook of those

1 who try criminal cases in this state.

2 I think this is a defensive mechanism insofar
3 as the rights of the people are concerned.

4 Now, I have never known of a serious miscarriage
5 of justice in the trial of cases in our area. I have known
6 of at least one case in a neighboring county where,
7 technically, probably, this person was guilty of a violation
8 of the law in that he was involved with a young lady who
9 was 13 years and 11 months and 28 days old, and had she
10 been about three days older it would not have been a hanging
11 offense.

12 The attorney defending the accused quite properly
13 made the point to the jury that they were in fact judges
14 of the law and the fact, and they might well consider
15 all factors in the situation, and they brought in a verdict
16 of not guilty.

17 Now, I do not ask for this as something
18 just for those of us who practice a little bit, and I
19 don't practice much of it any more, the defense of
20 criminal cases. I do ask for it as a protective
21 mechanism insofar as the people of Maryland are concerned.

1 I support the amendment.

2 THE PRESIDENT: Is there any further discussion?
3 Delegate Gill.

4 DELEGATE GILL: Mr. President and fellow
5 delegates, I would like to present the other side of the
6 picture.

7 I have served on a jury. Of course I am not a
8 lawyer. I can understand reasonably well, and I do
9 appreciate the instructions that come from the judges.
10 In September, when I came down here, I received another
11 notice to serve on a jury, and I would have enjoyed doing
12 so, knowing that I would get instructions from a judge,
13 but I don't think I would have accepted if this were the
14 case that I could not get instructions from a judge, so
15 I intend to vote against this because I think it handicaps
16 a person who is not a lawyer.

17 THE PRESIDENT: Delegate Moser.

18 DELEGATE MOSER: Mr. President, I know that the
19 non-lawyers and the lawyers among us are all rather tired
20 of hearing arguments over and over again on this particular
21 subject.

1 I rise, however, to speak against reinserting
2 this provision in the constitution, and I have just three
3 points to make.

4 In the first place, it simply is not true that
5 a judge can direct a verdict of guilty in Maryland, if the
6 juries as judges of the law provision goes out. I call
7 the attention of the Convention to Section 1.07 on pages 2
8 and 3 of the R&P provision that you have in front of you,
9 "Right of Accused".

10 One of those rights, reading on page 3, lines 2
11 to 5, is to have a speedy and public trial by an impartial
12 jury of 12 without whose unanimous consent shall not be
13 adjudged guilty.

14 This is a rather more stringent provision than
15 the Sixth Amendment to the U. S. Constitution and I think
16 goes further than it does. I think this more clearly than
17 the Sixth Amendment would prohibit a directed verdict of
18 guilty in a criminal case. I think under the Sixth
19 Amendment this would also be prohibited, notwithstanding
20 the arguments of Delegate Willoner.

21 Point two is that the so-called blackjack verdict,

1 which Delegate Willoner alludes to, would violate this
2 provision guaranteeing a jury trial. It would also probably
3 violate the due process clause.

4 Another point, I think Delegate Smith made the
5 argument that this provision, if it goes in, or that it is
6 necessary to put it in in order to allow the jury to
7 ignore the judge's instructions -- this is not true.
8 A criminal jury can find an accused not guilty notwithstanding
9 the judge's instructions.

10 The final point is that all of the other
11 jurisdictions in this country, with the possible exception
12 of Indiana, have found no problem without this provision
13 in the constitution. I hope that we keep it out.

14 THE PRESIDENT: Delegate Dukes.

15 DELEGATE DUKES: I don't believe I have anything
16 to say about the provision, but I think it is extremely
17 important.

18 In the first place, Delegate Moser pointed out
19 other provisions of the constitution which he maintains
20 would prevent the problem many of us fear. The only
21 requirement that requires a unanimous verdict has to be

1 within that sphere dedicated to the jury. The jury is
2 entitled to have its unanimous verdict in the area of finding
3 of fact. I think the delegate is dead wrong that you
4 can't have directed verdicts, you have them in the federal
5 courts every day, every week or every month, and there are
6 a number of annotations, all sorts of cases on it, and there
7 is no question in my mind whatsoever that you can't have
8 a directed verdict of guilty in the federal courts, and
9 you do have it in some other states.

10 As to whether or not other states have a problem
11 is not really our concern at this point. Other states
12 have developed their own body of law, time by time,
13 week by week, year by year. We are talking about, now,
14 changing the status in Maryland and putting in this
15 provision without any history whatever, without any
16 body of decisions in Maryland.

17 I don't know whether or not the Maryland law
18 would develop if this provision were left out so that
19 we would not have the problems that many of us fear.
20 I also do not know that it would not. I think there is
21 a very good chance that we would follow the federal courts,

1 and if we do we will have exactly the problem many of us
2 fear and that is the type of thing where you have a directed
3 verdict, where you have juries told what they can do and
4 can't do and where you even have verdicts set aside
5 notwithstanding the verdict when they come back, which is also
6 done in the federal courts.

7 I don't know what to tell you, because you will
8 get a lot of information here, you get different opinions.
9 You have a number of lawyers who stand up and say there is
10 no problem, others stand up and say it is a problem, and
11 obviously you can't make a decision based on what we are
12 telling you.

13 Therefore, all I can suggest is that if it isn't
14 any problem, if the juries are getting along all right
15 like they are and if we aren't having any trouble as we
16 are now, then I don't see any reason whatsoever to change
17 what we have.

18 The word "archaic" means more than old. A bible
19 is old, lots of things are old. That doesn't mean they are
20 out of date or don't work very well. There is no point in
21 changing just because somebody tells you it is archaic.

1 Wait until you hear somebody tell you a good reason, other
2 possibly than court efficiency which does not impress me as
3 outweighing the validity of protecting the rights of a
4 defendant, before you vote to change something that has
5 worked well in our Constitution for over a hundred years.

6 THE PRESIDENT: Delegate Penniman.

7 DELEGATE PENNIMAN: I rise to move the previous
8 question.

9 THE PRESIDENT: The question arises on ordering
10 the previous question. A vote aye is a vote in favor
11 of ordering the previous question on Amendment 2. A vote
12 no is a vote against.

13 All in favor of the previous question signify
14 saying aye. Contrary, no.

15 The ayes seem to have it, the ayes have it,
16 it is so ordered.

17 The question arises on the adoption of Amendment
18 2. A vote aye is a vote in favor of the amendment. A
19 vote no is a vote against.

20 For what purpose does Delegate Storm rise?

21 DELEGATE STORM: I am afraid I won't be allowed

1 to do this, but if you will notice Judge Sybert is a
2 sponsor of this amendment. He felt very strongly about it,
3 but he is sick. Would it be out of order if I pushed his
4 lever "yes"?

5 THE PRESIDENT: Indeed it would.

6 A vote aye is a vote in favor of Amendment 2.

7 A vote no is a vote against.

8 Cast your votes.

9 (Whereupon, a roll call vote was taken.)

10 THE PRESIDENT: Has every delegate cast his vote?
11 Does any delegate desire to change his vote?

12 Delegate James Clark.

13 DELEGATE CLARK: No.

14 THE PRESIDENT: Delegate James Clark votes no.

15 Does any other delegate desire to change his
16 vote?

17 The Clerk will record the vote.

18 There being 58 votes in the affirmative and 67
19 in the negative, the motion is lost, the amendment fails.

20 The next amendment is with respect to Section
21 1.16.

1 Delegate James, do you desire to offer your
2 Amendment V, for Victor? I can't be sure which is the
3 principal sponsoring delegate.

4 DELEGATE JAMES: Mr. Chairman, what are your
5 plans for the recess? I had planned to confer with my
6 co-sponsor and to lay plans to present this.

7 THE PRESIDENT: The time for the recess is now.
8 The Chair was simply not watching the time. We had
9 indicated to a number of delegates that we would recess
10 at about two o'clock and it is past that hour.

11 Delegate Gallagher.

12 DELEGATE GALLAGHER: Mr. President, the
13 Committee on the Legislative Branch will meet in the
14 lounge for a photograph just as soon as we do adjourn
15 for lunch.

16 THE PRESIDENT: Are there any other announcements
17 necessary to be made by committee chairmen?

18 Any announcements by anybody else?

19 Delegate Powers.

20 DELEGATE POWERS: Did you want to have a roll
21 call, Mr. President?

1 THE PRESIDENT: Any delegates present now not
2 present earlier this morning may indicate their presence
3 on supplemental roll call.

4 The Clerk will record the supplemental roll
5 call.

6 THE PRESIDENT: Delegate Powers.

7 DELEGATE POWERS: Mr. President, I move we
8 recess until three o'clock.

9 THE PRESIDENT: Fifty minutes, a recess until
10 three o'clock. All in favor signify by saying aye,
11 contrary, no. The ayes have it, it is so ordered.

12 (Whereupon, at 2:14 p.m., the Convention was
13 recessed until 3:00 p.m., the same day.)
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AFTERNOON SESSION

December 29, 1967 - 3:15 p.m.

THE PRESIDENT: The Convention will please come to order.

Roll call.

(Whereupon, the roll was called.)

THE PRESIDENT: Has every delegate answered roll call?

The Clerk will record the roll call.

Prior to the luncheon recess, we were about to consider amendments to Section 1.16. Delegate James, I called for your amendment among the group of those with more than fifteen sponsors. I find, however, that there is another amendment with respect to the same section and although it has only one sponsor it ought to be considered first.

Delegate Della, do you desire to offer your amendment B?

DELEGATE DELLA: I do.

THE PRESIDENT: Pages, please distribute Amendment B, Section 1.16.

1 Delegate Marion.

2 DELEGATE MARION: Mr. President, I rise on a
3 point of personal privilege. I would like to ask the
4 delegates to join me in welcoming to the Convention today
5 my wife Patsy and my two sons, David age 6, and Michael
6 age 4 and a half.

7 I recognize them at this time because for the
8 past several weeks it has been entirely unclear to them
9 whether I was still capable of recognizing them. They
10 are in the balcony behind the rostrum to the right.

11 (Applause)

12 THE PRESIDENT: This will be Amendment No. 3.
13 The Clerk will read the amendment.

14 MR. QUILLEN: Amendment No. 3 to Committee Recom-
15 mendation No. R&P-1 and R&P-2 as amended by Report No. S&D-9
16 by Delegate Della:

17 On page 4 Section 1.16, Eminent Domain in
18 lines 32 and 33 strike out the words "or damaged".

19 THE PRESIDENT: The amendment is submitted by
20 Delegate Della.

21 Is there a second?

1 (Seconded)

2 THE PRESIDENT: The amendment having been
3 seconded, the Chair recognizes Delegate Della to speak to
4 it.

5 DELEGATE DELLA: Mr. President and Member
6 Delegates: Unfortunately I wasn't here the other day when
7 this particular section of the Constitution was adopted.

8 In offering the amendment to strike from
9 Section 1.16 on line 32 the word "damaged", Mr. President,
10 I have heard many reasons why it should be in there. I
11 have heard that airports have been constructed and planes
12 have been flying over homes and therefore that property
13 has been damage.

14 There have been other reasons for some of the
15 delegates to have voted for it. In my way of thinking,
16 you are opening Pandora's Box of all kind of litigation
17 and Lord knows how much it will cost the State of Maryland
18 and the other political subdivisions.

19 That is the reason why, Mr. President, this
20 amendment has been offered. I think the subject matter
21 needs a lot of study. I think it needs a study to tell

1 us how much in dollars and cents it would cost the State
2 of Maryland.

3 With all the reasons I have heard I can
4 estimate that the cost could range from fifty million to
5 one hundred million dollars in damages.

6 Now, whether that is true or not, I don't know
7 and I don't think any man or any delegate in this chamber
8 can actually state exactly how much it would cost the
9 State of Maryland or any of the political subdivisions.

10 I do know this, that some of the public utili-
11 ties are also involved in this particular section of the
12 Constitution. They themselves would be involved and
13 certainly the consumer, the public utility would have to
14 be paying or footing the bill so what that cost will be,
15 Heaven knows, and I think a proper study should be made
16 before we ever adopt any section like this in the Consti-
17 tution, and I hope that this amendment is adopted.

18 THE PRESIDENT: Delegate Kiefer.

19 DELEGATE KIEFER: I rise to oppose the amendment.
20 We discussed this thing pretty carefully before. I believe
21 it is desirable perhaps just to call your attention

1 basically to what this Committee did because I am not
2 quite sure that some people may feel that we have gone
3 off half cocked. We did not.

4 First of all, we received ten proposals that
5 dealt with eminent domain. They covered a wide range from
6 a specific spelling out of procedure that was obviously
7 statutory to two or three of them which included this
8 business of damages other than just from a taking.

9 The Committee had a subcommittee headed by
10 Delegate Burgess and several others who made a very careful
11 study into this. We had testimony from various people.
12 We discussed it at great length. This is what we found
13 and I pass it on to you. You can then do with it what
14 you like.

15 First of all, since colonial days The State of
16 Maryland has provided in its taking authorities for damages
17 other than from an actual taking. It is probably with
18 perhaps one or two exceptions in the northeast part of the
19 United States the only state to do this; therefore, since
20 there has been no other legislative arrangements for a
21 taking or a compensation in lieu of damages, this problem

1 has been met in twenty-seven States by including the word
2 "damages" in the Constitution.

3 Now, let me just go back and tell you what
4 we are again doing. We are providing here in a bill of
5 rights a protection for individuals.

6 Now, the sovereign State of Maryland and any
7 other sovereign State has the right if it wants to to simply
8 come and take your property. It doesn't eve have to com-
9 pensate you for it. This has always been the case.

10 However, the Constitution contains a provision
11 that the State cannot take your property without just
12 compensation. What just compensation is in a taking is a
13 matter that is spelled out by Court decision.

14 Now, the Legislature to a certain extent has
15 a part in this. The Legislature can say, for instance,
16 if there has been a whole taking as our State Legislature
17 has done, then the measure of damage is the value of the
18 property. The Legislature can spell out how value is
19 determined and it does so in article 33-A of our Code,
20 Sections 5 and 6.

21 However, nearly one hundred years ago, recognizing
that there were instances where property was damaged by

1 a taking of neighboring property in such a way that while
2 the property itself was not touched there was a serious
3 diminution in value to it because of that taking and it
4 was a diminution in value that was peculiar to that
5 particular property that was damaged though not taken.

6 The State of Illinois back in 1870 passed an
7 amendment which is exactly the amendment that we have in
8 our recommendation that was adopted by the Committee of the
9 Whole. This has been adopted by twenty-six states. A
10 twenty-seventh has adopted it, but limited it only to where
11 grade levels are involved.

12 Now, there is nothing magical about this. This
13 does not provide a grab. It has been very narrowly con-
14 strued. I would like to for the purpose of clarity and
15 helping you people reach a decision on this thing to read
16 to you just a little bit from what is probably the
17 outstanding textbook on this subject. It is a six-volume
18 work by Nichols on eminent domain.

19 THE PRESIDENT: You have one minute.

20 DELEGATE KIEFER: I am sorry that I can't read
21 it to you, but if you will read the memorandum that went

1 around to you, you will see the summary of what has
2 happened judiciously.

3 Now, you have gotten a letter opinion from the
4 Attorney General. I did not see that until it was
5 distributed. I submit to you that it is based upon two
6 telephone conversations and apparently several papers
7 given at some meeting of highway officials.

8 I suggest to you that there are a lot of state-
9 ments in that that are not true. It is not a very scholarly
10 document. It is a scary document and it is a document that
11 I don't think if I were the Attorney General I would be
12 proud of to be seen and shown in public the way it has
13 been around here.

14 It is not supported with any cases except it
15 states a few Maryland cases on a subject we already know
16 about.

17 I don't know that this is a particularly catas-
18 trophic situation. It is only a recommendation by this
19 Committee to bring Maryland in line with the majority of
20 the States to arrange for a damage to property when it is
21 a peculiar damage in a peculiar kind of situation.

1 THE PRESIDENT: Your time has expired.

2 DELEGATE KIEFER: If you will read these docu-
3 ments, I think that you will find that it is a logical
4 and proper measure of damages and I hope that you will
5 reject the amendment.

6 THE PRESIDENT: Any further discussion?

7 Delegate Churchill Murray.

8 DELEGATE CHURCHILL MURRAY: I should like to
9 speak in opposition to the amendment. How much time --

10 THE PRESIDENT: Just a second. I thought you
11 were rising for something different.

12 Delegate Gilchrist, do you desire to speak?

13 DELEGATE GILCHRIST: Yes.

14 THE PRESIDENT: In favor of or in opposition?

15 DELEGATE GILCHRIST: In favor.

16 THE PRESIDENT: Before you start under the
17 informal procedure suggested by the Chair and thus far
18 observed by all delegates with a little prodding from the
19 Chair and the suggestion that time is expiring the sponsor
20 of the amendment and the Chairman of the Committee are
21 allotted six minutes, all other speakers three minutes.

1 Delegate Gilchrist.

2 DELEGATE GILCHRIST: Mr. Chairman and Ladies
3 and Gentlemen of the Convention. I was the sponsor of an
4 amendment proposed when this eminent domain provision came
5 before us earlier. I was the sponsor of that amendment
6 because I was afraid of what could happen and I remain
7 afraid of it.

8 The Attorney General of Maryland who may be
9 scarry and who may not be scholarly as the Chairman of the
10 Committee has said, has pointed out to this Convention some
11 of the dangers which are inherent in this sort of consti-
12 tutional writing.

13 In the course of opinion he says "We wish to
14 make it clear that we do not oppose some extension of the
15 right to compensation by virtue of condemnation proceedings.
16 We do, however, earnestly express the hope that this Conven-
17 tion will not adopt the unqualified phrase "or damaged" as
18 a part of the Constitution. It is our hope from our
19 concern over the best interests of the State of Maryland
20 that the Constitution, that the Convention will qualify
21 the phrase "or damaged in such a way that the General

1 Assembly can exercise discretion as to what claims for
2 damages are entitled to be considered. We have pointed
3 out in this letter the unhappy experiences of four States
4 which have similar phrases in their laws.

5 I might say in the memorandum that has been
6 submitted by the proponents of this provision, the pro-
7 ponents themselves admit that the Legislature can
8 broaden but cannot contract the liability of a State.
9 The problem is not with the broadening, the problem is
10 with the contraction of sweeping words such as "are
11 damaged."

12 One does not know now and one cannot know what
13 the courts of Maryland will determine damage to mean.
14 One will not know for another ten or fifteen years. As
15 one of my fellow lawyers pointed out this morning, I could
16 not recommend to a client that he settle the condemnation
17 case. I would have to recommend to him that it be litigated
18 all the way to the Court of Appeals.

19 THE PRESIDENT: You have one half minute.

20 DELEGATE GILCHRIST: For these reasons, for
21 the reasons which are inherent in anything so vague as this,

1 I urge all of you to support the amendment, take it out
2 and leave this in the province of the Legislature where it
3 properly belongs.

4 THE PRESIDENT: Delegate Churchill Murray.

5 DELEGATE CHURCHILL MURRAY: Mr. Chairman and
6 Fellow Delegates, perhaps this is the first time that I
7 have been able to say that I have the advantage of not
8 being an attorney because I can approach this from a purely
9 common sense -- nor do I mean to imply that being an attorney
10 would prevent one from doing this, but I don't have to
11 approach this from a legalistic standpoint. The question
12 here is very, very simple.

13 Delegate Della says that no one can tell us
14 what this will cost. I can tell him how to determine what
15 this will cost. If he will add up the loss that the indi-
16 vidual people are suffering in this, he will have the figure
17 that it will cost the State.

18 The simplicity of the question is: Will you
19 leave it to these individuals who are forced into this
20 position, who suffer this loss or will the State of Maryland
21 assume it?

1 I, too, am apprehensive of Pandora's Box.
2 Nevertheless, we have twenty or more States who are
3 operating under something very similar so we do have
4 some reason. I think it is purely a question of whether
5 we are going to meet our responsibility or recede from it.

6 THE PRESIDENT: Any other delegate desire to speak
7 in favor of the amendment?

8 Delegate Henderson.

9 DELEGATE HENDERSON: I spoke on this matter
10 once before and I hesitate to do so again and I will be
11 very brief.

12 I thoroughly agree with the proponents of this
13 amendment that it is wise, most wise, to take this out of
14 the draft and the reason I feel that way so strongly is
15 that a taking is something which is tied down to the
16 concrete, but when you say or damaged, in other words,
17 damaged regardless of the taking and not incidental to the
18 taking, but independent of the taking, then, you have
19 really no criteria and the word damage in its fullest
20 import would mean any detriment which is suffered by
21 anybody in the neighborhood or in the State for that matter

1 by a particular taking. That is the great danger.

2
3 Now, the Attorney General who through his
4 experience with the State roads certainly ought to know
5 something about this. He tells us that in his estimate
6 he figured that the cost of every condemnation in the State
7 would probably be doubled.

8 Now, we have no right to write a term like that
9 into the Constitution. The Legislature has plenary power
10 to remedy any wrongs which are put before it. It can
11 extend the scope of damage, but I submit that we should
12 not put this in the Constitution.

13 THE PRESIDENT: Any delegates desire to speak
14 in opposition to the amendment?

15 Delegate Burgess.

16 DELEGATE BURGESS: Ladies and Gentlemen of the
17 Convention, there seems to be a trend in certain areas of
18 this Convention and particularly in the Attorney General's
19 office that nobody else knows how to read a lawbook or make
20 a determination of what the law is. There are some of us
21 who have had some exposure to the law and I say to you
without qualification, I have very carefully studied this

1 problem. You are being fed the fullest snow job in the
2 fullest sense of the word. That memorandum from the
3 Attorney General ought to be ashamed of it. I have had
4 exposure on the problem of right of way. It is like asking
5 the proverbial fox to watch the hen house.

6 This means work for these gentlemen. This
7 means they cannot go helter-skelter full speed ahead.
8 We are talking about flesh and blood. The people in
9 Delegate Della's area have suffered from these.

10 We ask the Attorney General to research it and
11 ask to be advised as to what happened and what developed.
12 We wanted to know about it. Had there been any such area
13 I would have asked for the amendment. We have researched
14 it to the N'th degree. We know what we are talking about.
15 We can read the law and we understand it and we have tried
16 our share of cases and ladies and gentlemen, it is people
17 we are talking about, we are not talking about State road
18 commissions and all the rest of it. All these people have
19 answers. What answers do they give to the little man who
20 is economically destroyed by this?

21 Let us not kid ourselves. We are talking about

1 flesh and blood people and people are being cut up and
2 destroyed by this thing. If we don't draw the line somewhere
3 as they have done in forty-seven States, if the memorandum
4 we keep submitting were not so studiously ignored some of
5 these people would be enlightened.

6 THE PRESIDENT: Delegate Marvin Smith.

7 DELEGATE MARVIN SMITH: Mr. Chairman, let me
8 say first of all I have never had a case from the State
9 Roads Commission. I am a Republican. (Laughter) Those
10 things just don't filter down to our end and the odds are
11 that they will not.

12 Therefore, my experience in condemnation cases
13 has been where I have been representing people whose
14 property has been taken, and yes, if we put this word --
15 leave this word "are damaged" in there you will put some
16 money into my pocket. That is not the responsible way to
17 approach this matter. The responsible way to approach it
18 is that there should be a study in depth by the proper
19 committee of the General Assembly and let the General
20 Assembly study it.

21 Let us not be swept away by appeals by poor

1 people whose property is being taken. I feel strongly
2 about it. The responsible way to go about this is to
3 give full and adequate and complete study to it which has
4 not been done to this point.

5 Now, let me point out that Chairman Kiefer,
6 with all due respect to him made an obvious misstatement
7 here when he said that the State could take your property
8 now without compensation.

9 Well, this isn't true under the Fourteenth
10 Amendment to the Constitution of the United States. You
11 support this amendment.

12 THE PRESIDENT: Any other delegate desire to
13 speak against?

14 Delegate Dukes.

15 DELEGATE DUKES: Mr. Chairman and Fellow
16 Delegates: Unlike Delegate Smith, I have had an occasional
17 title search. I suppose it is possible ten years from now
18 to say I haven't any since 1967. Nonetheless, I did
19 accompany Delegate Burgess up to the balcony above and we
20 talked with Semelman there and we told him we didn't
21 want a bankrupt State. We said if he had a constructive

1 suggestion we would accept it. We thought he was going
2 to do a real job. We thought it would be a research job
3 and not a snow job.

4 Compare the memorandum you got from Delegate
5 Kiefer with the memorandum you saw from the Attorney
6 General's office. The Attorney General talked to people
7 in California and New York. They said they thought it
8 would have been easier and it would have expedited their
9 road program if they didn't have to fool around with this.
10 I suppose that is so. If they didn't have to pay anybody
11 anything, they could do it quicker and easier and cheaper.

12 To figure the cost, you just add up the injury.
13 If you are willing to pay for the injury, that is what the
14 cost is. I suppose from the kind of research we got from
15 the Attorney General's office it could run from zero to
16 thirty billion because they didn't base it on anything.

17 There are cases in this area. It is not pure
18 speculation as to whether or not these incidental matters
19 will be included. The Maryland Court of Appeals is not
20 known for its liberality in giving away the money of the
21 State of Maryland. The courts are not unfamiliar with the

1 word "damages". It is in the main stream of Anglo-Saxon
2 jurisprudence. I am sure the courts can handle it. If
3 the circuit courts can't do it the Court of Appeals will
4 help out.

5 I know we can do this. In some twenty-six
6 jurisdictions the courts in those States have been able to
7 handle this difficult problem. They have not given away the
8 States. The courts always help them out.

9 THE PRESIDENT: Delegate Kirkland.

10 DELEGATE KIRKLAND: Mr. Chairman, somewhere I
11 have heard all this before so I would like to move the
12 previous questions.

13 THE PRESIDENT: The question arises on the motion
14 to order the previous question rising on Amendment 3.

15 A vote Aye is a vote in favor or ordering the
16 previous question; a vote No is a vote against.

17 All in favor signify by saying Aye; contrary, No.
18 The Ayes have it, and it is so ordered.

19 The question arises on the adoption of Amendment
20 3. The Clerk will ring the quorum bell.

21 The question arises on the adoption of Amendment

1 No. 3. A vote Aye is a vote in favor of the amendment;
2 a vote No is a vote against. Cast your vote.

3 Has every delegate voted?

4 Delegate James Clark.

5 DELEGATE CLARK: Aye.

6 THE PRESIDENT: Delegate James Clark votes Aye.

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being fifty-three votes in the affirmative
10 and sixty-seven in the negative, the motion fails and the
11 amendment is rejected.

12 Delegate James, do you now desire to offer your
13 amendment V?

14 DELEGATE JAMES: Yes.

15 THE PRESIDENT: The pages will please distribute
16 Amendment V. This will be Amendment No. 4. The Clerk
17 will read the amendment.

18 MR. QUILLEN: Amendment No. 4 to Committee
19 Recommendation R&P-1 and R&P-2 as amended by Report No.
20 S&D-9 by Delegate James and others:

21 On page 4 Section 1.16 Eminent Domain in

1 line 34 after the word "compensation" add the following
2 words:

3 "except that the allowance of compensation for
4 property damaged but not taken for public use or purposes
5 shall be subject to any limitations and restrictions that
6 the General Assembly may prescribe by law".

7 THE PRESIDENT: The amendment is submitted by
8 Delegate James and seconded by the co-sponsors. The
9 Chair recognizes Delegate James.

10 DELEGATE JAMES: Mr. Chairman and Fellow
11 Members, the traditional law of condemnation for eminent
12 domain in Maryland has required that there be some sort of
13 a physical taking before the State could be required to
14 pay compensation to the property owner. If there is a
15 physical taking or a physical invasion or a cutting off
16 of the right of access, then in that event, the State would
17 have to pay fair compensation under standards set by the
18 General Assembly.

19 Now, the adding of the words "or damaged"
20 introduces a new concept into the law of eminent domain in
21 Maryland and it introduces it in a way which is not free

1 from doubt.

2 Now, it may well be that in other States, a
3 body of law has been developed which might be a guideline
4 to the Maryland courts, but, nevertheless, we would be
5 requiring damages to be defined by the courts. We would
6 have to build up a body of judicial decisions before there
7 would be any certainty in the Maryland law.

8 Now, without accepting all of the horrendous
9 forecasts of the Attorney General's decision, I think we
10 can accept this paragraph as being reasonably accurate.
11 It is our fear that the phrase "or damaged" as proposed
12 would be an invitation to litigation on a wholesale basis
13 by those seeking compensation for such items as 1, loss of
14 business caused by the construction of a bypass around a
15 city or town for the construction of a freeway adjacent to
16 an existing highway.

17 2, the construction of median dividers to
18 promote traffic safety which would have the effect of
19 making business properties readily accessible to one-way
20 traffic only.

21 3, loss of air, light, and view.

1 4, damage caused by increased noise and
2 vibration.

3 And with the exercise of a little imagination
4 one could conjure up a number of situations in which
5 there would be no actual taking, but there would be some
6 intangible effect on property which might be considered
7 as damages.

8 The mind would -- this opens up litigation which
9 is only limited by the imagination of lawyers and their
10 imagination in litigation is rather extensive.

11 Now, the only thing sought by the proposed
12 amendment is that the General Assembly be permitted the
13 opportunity to in some manner make a reasonable definition
14 of compensible damages in eminent domain cases.

15 Now, this could be done after a degree of study
16 which would tie the damages into property rather closely
17 and make it reasonable. Certainly, we don't want to have
18 to pay damages if we build a super highway which drains
19 traffic from smaller roads. We don't want to have to pay
20 damages if we remove a stoplight which causes business to
21 be lost by a roadside restaurant. Whatever could affect

1 the damage of property is something that is very, very
2 difficult to ascertain.

3 The only plea in this amendment is to give the
4 General Assembly the right and the duty to make a reason-
5 able definition of compensible damages where there is no
6 take.

7 Thank you very much.

8 THE PRESIDENT: Delegate Kiefer.

9 DELEGATE KIEFER: Mr. President and Ladies and
10 Gentlemen of the Convention, I rise to oppose this amendment
11 for these reasons: First, the General Assembly if it
12 tried to define and work out what is a damage and what is
13 not a damage in all of the myriad and hundreds of thousands
14 of kinds of situations would simply not get anywhere and
15 I would have to say to you ladies and gentlemen that in
16 none of the States has the legislature ever attejpted to
17 define what is damages. It can, of course -- this is a
18 matter of the courts -- it can, of course, define a
19 measure of how damages are to be based for instance on
20 valuation and it can be determined how valuation of
21 property is to be computed, but to try to spell out what

1 is damages has never, never been done by any legislature
2 anywhere.

3 Now, I would like to read to you very briefly,
4 the only State, the State of Massachusetts which has done
5 anything at all by statute and this is what it says. I will
6 just read a very short part. In determining the damages
7 to a parcel of land injured when no part of it has been
8 taken regard shall be had only to such injury as is
9 special and peculiar to such parcel.

10 Now, that is exactly what the courts have said
11 in the decisions and if you will look at our memorandum,
12 we quote the specific rule of law that has been developed
13 by the courts of Illinois and been followed almost
14 unanimously in almost all the other States that have this.

15 If you left it to the Legislature to try to
16 define damage or what is damage you get into a hopeless
17 kind of thing. You get into a situation where you may
18 have more confusion and more mixed up and I think the
19 situation would be unparlallel. We would not have the
20 basis of all the judicial interpretations that we now do
21 have to rely upon.

1 I think the proper place to determine what is
2 damage is in the courts as is done in all the other fifty
3 States and in the twenty-seven States that have this
4 particular question of damages other than for a taking.

5 I therefore respectfully urge that you reject
6 this amendment also.

7 THE PRESIDENT: Any other delegate desire to
8 speak in favor of the amendment?

9 Delegate Adkins.

10 DELEGATE ADKINS: Mr. President and Ladies and
11 Gentlemen of the Convention: I should like to make
12 perfectly clear that unlike the prior amendment offered by
13 Delegate Della, this amendment continues the constitutional
14 recognition of the concept of damage which despite the
15 fact that it has been recognized in some twenty-seven other
16 States is a new concept to Maryland jurisprudence in terms
17 of eminent domain.

18 With that constitutional recognition, however,
19 comes some very serious problems in terms of deciding the
20 amount of damages that should be awarded.

21 With no body of law in Maryland despite the

1 fact fact that courts outside of Maryland have made
2 decisions in the area, each case must necessarily be
3 litigated to the Court of Appeals on its own peculiar
4 facts if justice truly is to be done both to the entire
5 State who is paying the bill and to the recipient of the
6 damage.

7 This means delay, it means uncertainty, it
8 means confusion.

9 Now, it is quite true as Delegate Kiefer's
10 memorandum indicates that it is possible to synthesize
11 conclusions of the courts in other States. Being true,
12 it is perfectly possible for the Legislature to sit down
13 and write reasonable rules, reasonable legislative defini-
14 tions of the term damage. By so doing, the rights of those
15 people about whom many delegates are so deeply concerned
16 are amply protected. The rights of all the people are
17 amply protected and what is even more significant, a
18 certain element of certainty is introduced into the law
19 which will permit condemnation proceedings to proceed in
20 due orderly fashion.

21 I suggest to you, however, inarticulate as the

1 Attorney General's opinion may be, he speaks with more
2 authority in this field than anybody else in the State of
3 Maryland because within his office is and has been histor-
4 ically the burden of condemnation. If he says that it will
5 probably double the costs of taking, he may be right. If
6 it is necessary to double the costs of taking to be fair
7 to the people, so be it, but all I urge this Convention to
8 do is to permit this somewhat radical change in our laws
9 of eminent domain to be done in an orderly fashion; to
10 wit, through legislation, not left to the ten or fifteen
11 year period which it is necessary to have if judicial
12 regulations are to spell out the damages.

13 Anybody involved knows what a chaotic condition
14 this can be in the law of eminent domain. I would like
15 you to consider the fact that under the proposed amendment
16 we preserve the concept constitutionally. At the same
17 time we permit definitions to be written intelligibly for
18 the immediate present as well as for the future.

19 I would urge you to support the amendment.

20 THE PRESIDENT: Any other delegate desire to
21 speak in opposition to the amendment?

1 Delegate Bamberger.

2 DELEGATE BAMBERGER: Would Delegate Adkins
3 yield to a question?

4 THE PRESIDENT: Just a second. He has time
5 for just one short question.

6 Delegate Adkins, will you yield?

7 DELEGATE ADKINS: Yes, sir.

8 THE PRESIDENT: Delegate Bamberger.

9 DELEGATE ADKINS: As a sponsor of the amendment,
10 Delegate Adkins, do you agree with the intent as I understand
11 it expressed by Delegate James, and that is that this would
12 not permit the Legislature to abolish any compensation or
13 property which was damaged but not taken, but merely permits
14 the Legislature to define what is damage, absent the taking,
15 and to define the amount and measure of compensation?

16 DELEGATE ADKINS: Yes, I do. I think it is
17 quite clear that there is a constitutional right to be
18 compensated for property which is damaged, but not taken.

19 The purport of this amendment is to permit the
20 General Assembly to specify the limits within which that
21 damage may be compensable, but I would read it not as

1 giving the right to completely abolish the concept or
2 in other words to negative the constitutional import.

3 THE PRESIDENT: Delegate Marvin Anderson.

4 DELEGATE ANDERSON: Mr. Chairman, I rise to
5 oppose the amendment notwithstanding the distinguished
6 gentlemen who have sponsored the amendment and spoken in
7 its favor.

8 What we are trying to do here is something
9 that should have been done many, many years ago in the
10 State of Maryland. We are here, supposedly, to correct
11 the deficiencies of the old Constitution. Well, here is
12 one in all its glory for over one hundred years the
13 Legislature nor no one else has seen fit to correct the
14 inequity which has prevailed.

15 Massachusetts as far back as 1832 corrected
16 this situation. Illinois, I think, in 1870. Twenty-seven
17 States since 1870 have adopted this identical language
18 which we propose in this new Constitution.

19 Now, what we do not want to do is to put this
20 responsibility in the hands of the Legislature. We want
21 to put it in the Constitution where we know that it will

1 be and we will not have to wait for the Legislature to
2 assume this responsibility, so I am glad to note in passing
3 that the Attorney General's office has now been restored
4 to its rightful position in authority here and he comes
5 forth immediately stating that he will be willing to make
6 a study and so others in this delegation have stated that
7 they would like to study it further.

8 I do not know what we have been doing here all
9 this time if we haven't studied this simple proposition and
10 determined once and for all that instead of the State
11 taking people's property or damaging it and not paying for
12 it, we are now going to pay them what they should have
13 been receiving for the last one hundred years, no matter
14 what it cost.

15 THE PRESIDENT: You have one half minute,
16 Delegate Anderson.

17 DELEGATE ANDERSON: So I urge that this amendment
18 be defeated.

19 THE PRESIDENT: Any other delegate desire to
20 speak in favor?

21 Delegate Claggett.

1 DELEGATE CLAGETT: Mr. President, I wonder if
2 the sponsor of the amendment would yield to a question.

3 THE PRESIDENT: Delegate James, do you take the
4 floor to yield to the question? This will be the last time
5 you will take the floor, if you do.

6 DELEGATE JAMES: I will try.

7 THE PRESIDENT: Delegate Clagett.

8 DELEGATE CLAGETT: In line 7 would you be
9 amenable to striking the word "any" and inserting the
10 word "reasonable"?

11 THE PRESIDENT: Delegate James.

12 DELEGATE JAMES: That would be acceptable to
13 the sponsor if that is acceptable to my co-sponsor.
14 Delegate Adkins.

15 THE PRESIDENT: Delegate Adkins, did you get
16 the suggestion?

17 DELEGATE ADKINS: Do I understand it to be to
18 insert the word "reasonable" between "any" and "limitations"?

19 THE PRESIDENT: To insert the word "reasonable"
20 in place of "any".

21 Is that correct?

1 DELEGATE CLAGETT: Strike the word "any"
2 and insert the word "reasonable" thereof.

3 DELEGATE ADKINS: I am only one of sixteen, but
4 I would have no objection since I think that is within the
5 concept.

6 THE PRESIDENT: Do any of the other co-sponsors
7 on amendment 4 object to the modification of the
8 amendment by striking the word "any" in line 7 and insert-
9 ing the word "reasonable"?

10 Is there any objection from any delegate to
11 considering the word so modified?

12 There is no objection. The word "any" in line 7
13 is stricken. The word "reasonable" is inserted.

14 Any further discussion?

15 Are you ready for the question? The Clerk will
16 ring the quorum bell. The question arises on the adoption
17 of Amendment 4.

18 A vote Aye is a vote in favor of the amendment:
19 a vote No against. Cast your vote.

20 Has every delegate voted?

21 Delegate James Clark.

1 DELEGATE CLARK: I vote Aye.

2 THE PRESIDENT: Delegate James Clark votes Aye.

3 Does any delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being seventy-six votes in the affirmative
6 and forty-five in the negative, the motion is carried and
7 the amendment is adopted.

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1 The next section as to which the Chair
2 has any amendments sponsored by the requisite number
3 is Section 1.17. As to this section, the Chair
4 has five amendments, some of which have fifteen
5 sponsors, some of which have less. It seems to the
6 Chair that the orderly procedure would be to put
7 these amendments in the following order: First,
8 Delegate Hostetter's Amendment A which would strike
9 the entire section. Then Delegate Marvin Smith's Amendment
10 P which would strike the word "procedural", then
11 Delegate Kiefer's and others amendment. I won't put
12 that next.

13 Delegate Hostetter's Amendment N which
14 would add a phrase in the middle, Delegate Scanlan's
15 amendment which would add a phrase at the end, and
16 then Delegate Kiefer's Amendment N which would simply
17 rearrange the position of the section.

18 There being no other suggestion, we will
19 proceed in that order. Delegate Hostetter, do you
20 desire to offer your amendmentA?

21 DELEGATE HOSTETTER: Yes, I do.

1 THE PRESIDENT: Pages will please distribute
2 Amendment A.

3 Delegate Harry Taylor.

4 DELEGATE HARRY TAYLOR: While they are
5 distributing this amendment, I rise on a point of personal
6 privilege.

7 THE PRESIDENT: State the privilege.

8 DELEGATE HARRY TAYLOR: Delegate Rybczynski
9 has been trying to take my picture speaking all
10 afternoon, and I wanted to give him the opportunity.

11 THE PRESIDENT: You didn't give him
12 opportunity enough even to focus.

13 This will be Amendment 5.

14 DELEGATE BOTHE: Mr. President.

15 THE PRESIDENT: Delegate Bothe.

16 DELEGATE BOTHE: Would it be in order
17 that all the amendments be distributed at this time?

18 THE PRESIDENT: It would be possible
19 except that it would end up with confusion. I would have to
20 find out whether each sponsor desires to offer the
21 amendment in the event the earlier amendments are

1 accepted or defeated.

2 Delegate Marvin Smith, if Amendment 5 is
3 adopted, I am assuming none of the other amendments
4 would be offered. Would you, if Amendment 5 is adopted,
5 would you want to offer your Amendment B?

6 DELEGATE MARVIN SMITH: No, sir.

7 (Laughter)

8 THE PRESIDENT: If Amendment 5 is rejected,
9 would you offer your Amendment B?

10 DELEGATE MARVIN SMITH: In that case, I
11 would defer to the one that Delegate Scanlan has.

12 THE PRESIDENT: Delegate Scanlan, if
13 Amendment 5 is rejected, would you want to offer your
14 Amendment W.

15 DELEGATE SCANLAN: If it is rejected, yes.

16 THE PRESIDENT: I don't see any point in
17 distributing Amendment N which merely repositions it.

18 Will the pages please distribute Amendment M,
19 Amendment W, and Amendment P.

20 While they are being distributed, Amendment
21 A will be No. 5. Will the Clerk please read the

1 amendment?

2 MR. QUILLEN: Amendment No. 5 to Committee
3 Recommendations R&P 1 and 2 as amended by reports S&D-9
4 by Delegate Hostetter and others:

5 On page 4 strike out all of Section 1.17,
6 Collective Bargaining comprising all of lines 36
7 through 43, inclusive.

8 THE PRESIDENT: The amendment having been
9 submitted by Delegate Hostetter and seconded by the
10 co-sponsors, the Chair recognizes Delegate Hostetter.

11 DELEGATE HOSTETTER: Mr. President and
12 members of the Convention, up to this time no other
13 section of the Constitution has brought as much
14 criticism to the Convention as has Section 1.17 in
15 a declaration of rights entitled Collective Bargaining.

16 This criticism has not been pro or anti labor
17 as such, but has been directed to the question of whether
18 or not Section 1.17 is of constitutional dimension. The
19 consensus is unanimous on this. Section 1.17 is not
20 of constitutional dimension or of constitutional
21 stature. The collective bargaining section is clearly

1 directed to a class or segment of our society.

2 It does not meet the constitutional require-
3 ment of protecting the rights and liberties of all
4 members of our society and I submit that any provision
5 in this Constitution must meet this requirement in
6 order to be considered a fundamental right deserving
7 a place in the Declaration of Rights. This section
8 clearly does not meet the test.

9 Section 1.17 is statutory in character and
10 rightfully should be left to the legislature. I urge
11 all delegates for the good of the entire Constitution
12 and we ourselves as a Convention to support this
13 amendment and delete Section 1.17 in the Declaration
14 of Rights.

15 Thank you.

16 THE PRESIDENT: Delegate Kiefer.

17 DELEGATE KIEFER: Mr. President and ladies
18 and gentlemen of the Convention, in view of my personal
19 feelings about this, I have to yield to Delegate Bothe.

20 THE PRESIDENT: Delegate Bothe.

21 DELEGATE BOTHE: Mr. President and fellow

1 delegates, the provision which you are being asked to
2 consider was passed by a vote of eighty-three to thirty-
3 seven by this Body sitting as a Committee of the Whole.
4 This was passed after five hours of debate, protracted
5 questioning, and much consideration, and after the
6 Committee on Personal Rights devoted approximately one full
7 day and a half to hearings, pro and con, on this issue.

8 There is nothing that can be said or has been
9 said since the action of the Committee of the Whole
10 which was not known to all who are now in this room at
11 that time, and I hesitate to embark upon a complete
12 explanation of the action which was taken at that time
13 although I suppose it must be done at least to the
14 extent of answering some of the various letters and
15 questions that have been reiterated since.

16 The subject to which Delegate Hostetter
17 addresses himself is the one, of course, to which the
18 debate was largely directed when the matter was before
19 the Committee of the Whole and that is whether this
20 provision belongs in the Declaration of Rights.

21 Of course, it does. One would think perhaps

1 that we were debating in the Convention in which the
2 gentleman's picture over on the wall was taking place
3 one hundred years ago in 1867. This matter would
4 have been a subject of great debate and contention as
5 to whether employees should have any rights vis-a-vis
6 their employers, but this is 1967. Maryland is anachron-
7 istic in that the right has not been fully realized long
8 since.

9 In the State of New York which I believe was the
10 first to provide in its Constitution for a recognition
11 of a right to organize and bargain collectively while
12 the new Constitutional Convention of this year
13 recommended continuation of that provision, the debate
14 in the New York Convention was whether it was still
15 necessary to continue it because it had become so
16 firmly established.

17 We here in the Convention are not continuing
18 many provisions of the current Declaration of Rights of
19 the Maryland Constitution. One example is the prohibition
20 against slavery. It is no longer necessary to speak of
21 that. What we need to speak to and of today is the

1 rights of people in 1967 in a modern industrial
2 society where the relationship between employer and
3 employee is one of the most pervasive and perhaps the
4 most important which the average man or all the citizens of
5 the State enter into and I don't think it is necessary
6 to point out statistically that just about all of the
7 citizens of the State of Maryland are either employers
8 or dependent upon the wages and working conditions of
9 an employer for their own livelihood and well being.

10 Some five hundred thousand citizens of this
11 State who are working people do not have any realization
12 of the right to organize and bargain collectively because
13 they are not covered by federal law and there is no
14 state provision. It has been said that the whole
15 subject should be a statutory one. I agree. It should
16 largely be a statutory one, but the principle is of
17 constitutional dimension.

18 And, it is only the principle which is
19 expressed here in the Declaration of Rights before you
20 today, the principle that employees shall have the right
21 to organize and bargain collectively.

1 Of course, it will be and should be regulated
2 by statute, and I point out that there are many rights
3 that are regulated by statute. The one that was just
4 discussed in such length on eminent domain. We have a
5 simple statement in the Constitution that property shall
6 not be taken or damaged without just compensation, and
7 then we have a full legislative article setting forth
8 how property can be taken, what fair standards there
9 are--

10 THE PRESIDENT: You have three-quarters of
11 a minute, Delegate Bothe.

12 DELEGATE BOTHE: The same would apply under
13 the provision which is here advocated.

14 This provision could be the most important
15 which we put in a Declaration of Rights. Employees
16 should have the right to organize and bargain collectively
17 if they choose to do so. They do not have it now. It
18 is one of the most important prerogatives of the
19 individual citizen of this State that can be had or
20 realized and I urge that you reject this amendment and keep
21 and put in the Maryland Constitution a right which four

1 other state constitutions have recognized, which almost
2 every other state in the Union has recognized, which is
3 long overdue in the State of Maryland.

4 THE PRESIDENT: Delegate Sherbow.

5 DELEGATE SHERBOW: Mr. President and ladies
6 and gentlemen, I hope that you will support this amend-
7 ment and delete this provision and these are the reasons
8 on which I urge this decision:

9 This is one item in the Constitution in the
10 Bill of Rights that does not deal with the rights that are
11 related to the State and its people. You will look
12 at the other rights and you will see that it is the
13 State and the people who are protected one against the
14 other. Protection for the people.

15 But now you are writing into the Bill of Rights
16 and into the Constitution rights as between private
17 citizens, individuals, and you only go part of the way.
18 You talk of their rights to organize. You do not talk
19 of the rights of the public. You do not talk of the
20 rights not to join or to organize.

21 Now, what will this do? Maryland is a state

1 which in large measure must attract people and industries
2 to this state because of its climate, and by climate
3 I do not mean the air, the rain, or the sunshine, but
4 I mean the kind of life that is in our law with respect
5 to the attitude of the state toward business, industry,
6 workers, and all of the people.

7 When you pick out one segment and say that the
8 rights vested in them are superior to the rights vested
9 in all the others, you then get a disjointed picture.
10 Industry will not come to a state which puts into its
11 fundamental charter this kind of a public policy which
12 is distorted in its framework. This is wrong. All
13 that has been said can be said or may hereafter be
14 said with regard to this subject can and should be
15 said by the legislature.

16 In Congress they adopted, and very properly
17 and undoubtedly belatedly, the National Labor Relations
18 Act. All of this was statutory. When it was necessary
19 to bring it closer to center because it was going too
20 far, other statutes were passed. All of this in order
21 that all groups may be properly protected, but bear in

1 mind that what you are doing here relates to your State
2 Police, relates to every group who is involved in the
3 operation of government as well as in the livelihood
4 to which they are entitled.

5 THE PRESIDENT: You have one-quarter of a
6 minute.

7 DELEGATE SHERBOW: All I am saying to you is
8 that this should be left to the legislature. I hope
9 you will adopt the amendment. I hope that this will
10 not be a part of the Bill of Rights in this Constitution.

11 THE PRESIDENT: Any other delegate desire to
12 speak in opposition?

13 Delegate Sickles.

14 DELEGATE SICKLES: Mr. President, fellow
15 delegates, I rise in opposition to the amendment which
16 has been offered. As was indicated, we went up the
17 hill and down for many hours not too many days ago, and
18 I am sure that there are not going to be any new facts
19 brought to light, but I think we ought to keep this
20 provision which was adopted by the Committee of the
21 Whole in proper perspective.

1 I had the rather interesting experience of
2 attending a meeting of the Chamber of Commerce in
3 Prince Georges County where I am a member and listened
4 to a representative from the Baltimore Association of
5 Commerce who came and explained to our group just
6 exactly what we have done here. He didn't understand
7 it. Certainly what he said was far from what we have
8 done here because all we have done, and I think we have to
9 remember this all through the discussion, is establish
10 a basic rate.

11 We have not concerned ourselves with joining
12 or not joining labor organizations. We have not changed
13 the law with respect to the power of the state to regulate
14 who may strike and who may not. We have not gone into
15 that area at all. We have recognized what I would
16 imagine in the year, 1967, would be awfully hard not to
17 recognize, that in the industrial State of Maryland, the
18 basic right of employees to assemble together to bargain
19 through representatives of their own choosing and not
20 because they choose to do so being subject to threats
21 by their employer or to be fired by so doing. That is

1 just about what we have done.

2 This does not take from the legislature its
3 power to set up what we call a Little-Wagner Act to
4 deal in detail with the exercise of this basic right
5 that the employees have.

6 I strongly urge you not to be panicked, and I
7 am reminded of the old Chinese proverb that a dog barks
8 at his shadow and one hundred dogs bark at the sound.
9 Dire predictions are unwarranted in this case. It is a
10 basic right that ought to be established.

11 THE PRESIDENT: Delegate Winslow.

12 DELEGATE WINSLOW: Mr. President, I rise to
13 speak in favor of this proposal, and I do it on what I
14 believe is a consistent ground with respect to my
15 vote heretofore in this Convention. I see no place in
16 a Bill of Rights to select one group of people and write
17 a section for that group unless we are willing to select
18 other groups and do exactly the same thing. This is why
19 I think this is not of constitutional status, and I am
20 toying with the idea of introducing an amendment which
21 will set forth the right of retired persons. We are

1 an ever increasing group. More and more of us are getting
2 past sixty-five.

3 I think the Constitution perhaps ought to
4 run through a long list of special groups of people
5 and set forth certain constitutional rights.

6 It seems to me that we would be well advised
7 to support this amendment.

8 THE PRESIDENT: Delegate Sollins, do you
9 desire to speak in opposition?

10 DELEGATE SOLLINS: I move the previous
11 question.

12 THE PRESIDENT: The motion to order the
13 previous question has been duly seconded.

14 The Clerk will ring the quorum bell.

15 The question arises on the motion to order
16 the previous question on the adoption of Amendment 5.
17 A vote Aye is a vote in favor of ordering the previous
18 question. A vote No is a vote against.

19 All in favor signify by saying Aye; contrarv
20 No.

21 The Ayes have it, and it is so ordered.

1 The question arises on the adoption of
2 Amendment No. 5. A vote Aye is a vote in favor of the
3 amendment. A vote No is a vote against.

4 Cast your votes.

5 Has every delegate voted?

6 Does any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being sixty-one votes in the affirmative
9 and fifty-five in the negative, the motion is carried
10 and the amendment is adopted.

11 DELEGATE HARRIS: Mr. President.

12 THE PRESIDENT: Delegate Harris.

13 DELEGATE HARRIS: In reaching over and pushing
14 my button, inadvertently I pushed it wrong. I had some
15 cough drops here. I voted for the amendment, and I wish to
16 be recorded as voting against.

17 (Laughter)

18 THE PRESIDENT: Mr. Clerk.

19 Delegate Harris is recorded as voting against
20 and not in favor. The tally is sixty votes in the
21 affirmative; fifty-six votes in the negative. The

1 motion is carried, and the amendment is adopted.

2 I take it, Delegate Hostetter, you do not desire
3 to offer your amendment M?

4 DELEGATE HOSTETTER: That is correct, sir, I
5 do not.

6 THE PRESIDENT: Delegate Scanlan, you do not
7 desire to offer your Amendment W or any version of
8 it?

9 DELEGATE SCANLAN: No, I do not.

10 THE PRESIDENT: Delegate Marvin Smith, you
11 do not desire to offer your Amendment P?

12 DELEGATE MARVIN SMITH: No, sir.

13 THE PRESIDENT: And Delegate Kiefer, your
14 amendment becomes inappropriate.

15 Delegate Beatrice Miller.

16 DELEGATE BEATRICE MILLER: Mr. Chairman, I
17 would ask, and I don't know how to do this parliamentarily,
18 but I would ask at some point before we conclude this
19 section that there be reconsideration. I think there
20 were points that were not made in consideration of this, and
21 it is far too important to take it just on this vote.

1 THE PRESIDENT: You are speaking of recon-
2 sideration of the vote just taken?

3 DELEGATE BEATRICE MILLER: Yes, sir.

4 THE PRESIDENT: It is in order now if you
5 desire to make the motion.

6 DELEGATE BEATRICE MILLER: I would prefer
7 to wait a few minutes. I think the point was made that
8 some people were not here. I would rather wait until
9 later in the afternoon, if possible.

10 THE PRESIDENT: Very well. Keep in mind that
11 if the motion is made before action on this recommendation,
12 it need not lay over. If it comes after that time, it
13 must lay over for two days under the rule.

14 DELEGATE BEATRICE MILLER: I would like to make
15 the motion to reconsider before we take action on the
16 entire proposal.

17 THE PRESIDENT: Very well.

18 Delegate Key, you have indicated to the Chair
19 that you desire to move to reconsider the vote by which
20 Amendment 1 was passed. Do you desire to do that at this
21 time?

1 DELEGATE KEY: Yes, I do.

2 THE PRESIDENT: Delegate Key desires to move to
3 reconsider the vote by which Amendment No. 1 was
4 adopted. Is there a second?

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: The amendment is seconded.

7 The Chair recognizes Delegate Key to speak to the
8 motion to reconsider. Please keep in mind this is
9 a motion to reconsider the vote by which Amendment No. 1
10 was adopted by a vote of fifty-nine to fifty-six. On
11 the motion you are privileged to speak not only on the
12 motion to reconsider, but on the main question. We have
13 been following the policy of doing so in order to save time.

14 Delegate Key.

15 DELEGATE KEY: Mr. President and ladies and
16 gentlemen, I would like to reconsider the vote by which the
17 words "economic opportunity" were added to the preamble of
18 the Constitution that we are now drafting for two reasons:

19 First of all, let me say that I guess I am
20 more in need of economic opportunity than anybody else. I
21 hate to keep reminding you of that, but I do represent

1 the most economically deprived area in Baltimore City
2 stated statistically by the Department of Health.

3 But, first of all, we have not in this
4 Convention been willing to put in the body of the Consti-
5 tution any reference to economic opportunity and this is
6 where it has meaning.

7 My second reason for wanting to reconsider is
8 because it has already been stated in the preamble and I see
9 no reason to restate what has already been stated. Now,
10 according to my dictionary which I keep over here because
11 not being a lawyer I have to refer to it quite often, it
12 says: If you refer to your preamble, we have here
13 stated that all government is instituted to secure
14 their right to life, liberty, and the pursuit of
15 happiness.

16 According to my dictionary, life is
17 defined as livelihood and livelihood is means of
18 support or subsistence which, I think, we all would
19 consider economic opportunity.

20 Liberty is defined as the positive enjoyment
21 of various social, political, or economic rights and

1 privileges.

2 Happiness, in pursuit of happiness, is defined
3 as a state of well being and contentment, good fortune,
4 and prosperity. I think the words "economic opportunity"
5 are aiming at all of these, but I think the phrase
6 "right to life, liberty, and pursuit of happiness" say
7 it more adequately than "economic opportunity" ever could.

8 THE PRESIDENT: Any other delegate desire
9 to speak?

10 Delegate Kiefer.

11 DELEGATE KIEFER: Mr. President, I think I
12 ought to yield to Delegate Koger. It was his amendment.

13 THE PRESIDENT: Delegate Gill.

14 DELEGATE GILL: Mr. President and fellow
15 delegates, of course, Delegate Key's amendment to
16 reconsider comes as a surprise to me. When the original
17 proposal came to include it in the main body of rights,
18 it seemed to me then even though I voted for it, it
19 would be something hard to attain, but worthwhile if
20 it were possible, so I voted for it.

21 After talking with Delegate Koger for several

1 days, we decided that it really would fit well in the
2 preamble because it is an ideal philosophy of life. It
3 is something that all of the people in Maryland need,
4 whether they are white or black or yellow or any other
5 color or whether they are rich or poor or whether they
6 are advantaged or disadvantaged. It is an equal
7 opportunity whether you live in the mountains, whether
8 you live in the city, whether you live on the seashore, or
9 whether you live in southern Maryland.

10 Let us all aim to have that equal chance
11 whether we can actually attain it or not, and that is
12 why I believe it should be in the preamble. I was very
13 proud when it won out by three or four votes. I did
14 note that three negroes did not vote for it, and I
15 was wondering why. Of course, I know why when I
16 see Delegate Key did not vote for it. I hope those
17 who voted for it will not vote against it now because
18 it is being reconsidered. It is an ideal that I
19 think belongs in the preamble, and it certainly does
20 not duplicate what is already in there so I hope that
21 it will be voted on favorably to go into the preamble.

1 THE PRESIDENT: Any other delegate desire
2 to speak on the motion to reconsider?

3 Delegate Beatrice Miller.

4 DELEGATE BEATRICE MILLER: Mr. Chairman and
5 fellow delegates, I rise to support the amendment to
6 reconsider and to state that although I was one of the
7 people who voted reluctantly this morning to include the
8 words, I would now vote with far less reluctance to take
9 them out.

10 I had some feeling this morning as this
11 proposal was made that some of the delegates were
12 supporting it because they intended in that way to
13 salve their consciences and then later to vote against
14 the proposal that had any real meaning. This is sheer
15 hypocrisy what is taking place here.

16 Everyone of us know from our work here and
17 what we know before that the preamble does not stand
18 for any form of law. All of them know this and to
19 put something like this, economic opportunity, into
20 the preamble without making any provision at all for
21 it in the body of this Constitution, in the framework

1 of our government, is the same as the other kind of empty
2 promises that are being made to the poor and causing
3 the kind of problems and havoc that we face.

4 Are you going to walk out of this Convention
5 and return home and say you have done something for the
6 poor or for the working people and that you have
7 guaranteed economic opportunity? You have put two empty
8 words in the front of the Constitution, in the preamble.

9 Fellow delegates, you put freedom in the
10 preamble, but then you took steps in the Declaration
11 of Rights to make sure that those freedoms were guaranteed.
12 You refused to put equal educational opportunity for
13 children or for education in this Constitution. You
14 have just now rejected any sort of equal opportunity
15 for industrial democracy for all of the millions of
16 Maryland people who work on the job and yet you want
17 to go home with the words "equal opportunity" in the
18 preamble.

19 I refuse to be part of such a hypocrisy.
20 I think it would be far better if we took them out.

21 THE PRESIDENT: Delegate Lloyd Taylor.

DELEGATE LLOYD TAYLOR: Mr. Chairman and fellow delegates, I rise in support of this amendment. The preamble is just a bunch of words and we are tired of a bunch of words.

The State of Maryland recently filed a case in the Supreme Court under the direction of the Attorney General. They filed a case to prohibit the State of Maryland from being covered by the minimum wage law and the present minimum wage law that is effective as of February 1, 1967, is only one dollar and fifteen cents an hour.

And, of course, the State of Maryland has filed suit in the Supreme Court to prohibit employees of the public schools and hospitals in this state from coming under the minimum wage law. Two words, "economic opportunity", will not help these people who work for the State of Maryland. If we fail to include in the Constitution a real meaningful proposal on the right to collective bargaining, the poor and working man of the State of Maryland has not been helped by this Constitution.

1 If you are going to reorganize the state
2 instead of regional government and still have low
3 wages and still have many employees intimidated by private
4 employers and by state supervisors and many state agencies,
5 this will not really help the working man.

6 Turning back to what President Roosevelt said
7 more than forty years ago when he proclaimed his
8 economic bill of rights, he said, "We have come to a
9 realization of the fact that true individual freedom
10 cannot exist without economic security and independence."
11 These words in the preamble will not solve the problem.
12 We have to solve the problem by putting it in the body
13 of the Constitution.

14 The Constitution does not have any guts. It
15 has a certain amount of political rights, but people can't
16 eat political rights. They need something for their
17 stomachs, and people throughout the State of Maryland,
18 they want something they can see and something they
19 can really put their teeth into, but they can't put their
20 teeth into this Constitution.

21 THE PRESIDENT: Delegate Schneider.

1 DELEGATE SCHNEIDER: Mr. Chairman, I
2 move the previous question.

3 (Whereupon, the motion was seconded.)

4 THE PRESIDENT: The question arises on
5 ordering the previous question which is on the motion to
6 reconsider the vote by which Amendment No. 1 was adopted.
7 A vote Aye is a vote in favor of the motion ordering the
8 previous question. A vote No is a vote against.

9 All in favor signify by saying Aye; contrary
10 No.

11 The Ayes have it, and it is so ordered.

12 The question now arises on the adoption of
13 Amendment No. 1. The Clerk will ring the quorum bell.

14 I am sorry. The question arises on the motion
15 to reconsider the vote by which Amendment No. 1 was
16 adopted. This is only on the motion to reconsider. If
17 it is reconsidered, then Amendment 1 will be before
18 you again. A vote Aye is a vote in favor of the
19 motion to reconsider; a vote No is a vote against.

20 Cast your votes.

21 Has every delegate voted?

Does any delegate desire to change his
vote?

The Clerk will record the vote.

There being eighty-two votes in the affirmative and thirty-four in the negative, the motion to reconsider is adopted.

The question now arises on the adoption of
Amendment No. 1. Are you ready for the question?

(Cries of "Question")

THE PRESIDENT: The question arises on the adoption of Amendment No. 1. A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

Has every delegate voted?

Does any delegate desire to change his
vote?

There being forty votes in the affirmative and seventy-six in the negative, the motion fails and the amendment is rejected.

Delegate Willoner, you have two amendments, one of which is sponsored by yourself and fifteen or more

1 other delegates and the other by you alone, Amendment K
2 and Amendment U. Are they intended as alternates?

3 DELEGATE WILLONER: Yes, they are, Mr.
4 Chairman.

5 THE PRESIDENT: The Chair would be disposed to
6 put Amendment K and permit you the opportunity to move
7 your Amendment U as a substitute if that meets with
8 your approval?

9 DELEGATE WILLONER: That would meet with my
10 approval, Mr. Chairman.

1 THE PRESIDENT: Pages please distribute Amend-
2 ment K.

3 This poses a problem. Are you going to be
4 sponsoring both?

5 DELEGATE WILLONER: One is an alternative or
6 has been said in this Convention a second line of defense.

7 THE PRESIDENT: You can't very well offer it
8 and then offer a substitute for it.

9 DELEGATE WILLONER: It is not meant to be a
10 substitute for it, Mr. Chairman. It will not be offered
11 if Amendment K passes.

12 THE PRESIDENT: Oh, all right. Amendment K,
13 K for King.

14 This will be Amendment No. 6. The Clerk will
15 read the amendment.

16 MR. QUILLEN: Amendment No. 6 to Committee
17 Recommendation No. R&P-1 and R&P-2 as amended by Report
18 No. S&D-9 by Delegate Willoner and others:

19 On page 4 immediately preceding line 45 of
20 Section 1.18. Reserved Rights add the following new
21 section:

1 "Section 1. ____ Freedom of Information

2 Governmental proceedings, meetings, and records
3 shall be open to the people and prior notice of such
4 proceedings or meetings shall be provided, except as other-
5 wise prescribed by law."

6 THE PRESIDENT: The amendment having been offered
7 by Delegate Willoner and seconded by the co-sponsors,
8 the Chair recognizes Delegate Willoner.

9 DELEGATE WILLONER: Mr. Chairman and Members of
10 the Convention: This amendment is offered as it was offered
11 before for the purposes of developing the principle of
12 freedom of information.

13 I should like to say that there is a very major
14 change in this to answer the critics of our previous
15 proposal.

16 It had been said that the previous proposal
17 was too broad and allowed too much or was too dramatic a
18 change, so what has been done to answer these critics
19 because invariably every critic that I spoke to said that
20 they were strongly in favor of freedom of information
21 except that they felt that the provision went too far:

1 therefore, the word "all" has been stricken. The effect
2 of this would be that those areas that would be -- where
3 the public interest would be served by maintaining secrecy,
4 would be protected.

5 Let me give you an example so that you understand
6 the effect of this. The presumption, there is no presumption
7 now that public meetings are open. Let us say a body of
8 county commissioners would decide to hold an executive
9 session and they close the session up and there is no
10 reason why they have to maintain it as an open session.

11 This would change the presumption. The
12 presumption would be that they must hold an open session.
13 However, it would be a rebuttable presumption in that in
14 the event that the public interest would be served by
15 maintaining an executive session they could so maintain it.

16 Now, in explaining this provision before, I
17 explained that the method of enforcement would be by way
18 of injunction or mandamus; in other words, if the session
19 was a closed session and a citizen wished to attend the
20 session, he would have to seek a writ of mandamus and this
21 provision would be all persuasive.

1 Now that is no longer the case. Now the
2 provision would provide while the presumption would be that
3 it would be an open meeting, it would be rebuttable to the
4 extent that if the public interest was served by maintaining
5 an executive session, an executive session would be
6 appropriate.

7 For example, several questions were raised as
8 to discussion involving purchase of land. It is obvious
9 that would be an area that would be protected.

10 Another area would be discussions involving
11 personnel, the areas where the private, the right to
12 privacy would be involved but this would be left up to the
13 Court. It would be a rebuttal presumption instead of an
14 absolute presumption of open meetings.

15 May I say this is really taking the same
16 concept that is now in the common law in regard to records.
17 There is a right to records today, a right to view public
18 records today.

19 However, where the public interest requires that
20 the records be closed, the Courts can act to protect this
21 as they have protected the records of the grand juries,

1 they have protected the police records and matters such
2 as that. You have to show so that essentially we would be
3 applying the same tests that are used in the protection of
4 public records today by the Courts to meetings.

5 Now, secondly, this has a second escape clause
6 in that the exception as otherwise prescribed by law
7 applies to the whole section and that the Legislature
8 could provide for a protection of certain things that would
9 not fall within this public interest area and this provision
10 would not be effective as was in the original memorandum
11 supporting this until 1970.

12 This is one of the most important rights.
13 As I explained before and I don't want to go into the
14 details and the need for this, but most everybody who has
15 spoken for or against this particular right admitted that
16 it is a problem, the right to get access to information.

17 Now, this has often been considered part of the
18 right to the freedom of speech and the freedom of the
19 press because if you have got nothing to write or speak
20 about this is a limitation although the courts have not
21 gone that far. This would be a development in this area.

1 I challenge this Body to do something original
2 in this declaration of rights to provide for this freedom
3 of information and I ask you to support this.

4 The last time it failed by I believe four votes.
5 I would hope that with these changes made in this freedom
6 of information section that this would now meet those
7 critics and would allow Maryland to take a new step in a
8 new area and that we could truly consider ourselves founding
9 fathers.

10 Thank you.

11 THE PRESIDENT: Delegate Weidemeyer.

12 DELEGATE WEIDEMEYER: Mr. President, I would
13 like to ask the sponsors of this amendment if --

14 THE PRESIDENT: Just a second.

15 He has just a little over half a minute so
16 make your question brief.

17 Delegate Willoner, do you yield to a question?

18 DELEGATE WILLONER: I yield.

19 THE PRESIDENT: Delegate Weidemeyer.

20 DELEGATE WEIDEMEYER: Would you accept an amend-
21 ment to this in line 9, strike out the words "except as

1 otherwise", and insert in lieu thereof "to the extent and
2 in the manner"?

3 THE PRESIDENT: Delegate Willoner.

4 DELEGATE WILLONER: I would not. I think that
5 destroys the whole argument. The argument that the
6 presumption switches would not take effect if you just had
7 it as provided by law.

8 THE PRESIDENT: Delegate Weidemeyer.

9 DELEGATE WEIDEMEYER: I wanted to explain to
10 Delegate Willoner that there are two modes of approach this
11 way.

12 THE PRESIDENT: I think he understands that, but
13 his time has expired, Delegate Weidemeyer.

14 DELEGATE JOHNSON: I will ask Delegate Willoner
15 if he will accept an amendment to the amendment.

16 THE PRESIDENT: His time has expired. I can't
17 cut off Delegate Weidemeyer and let you speak to him.

18 DELEGATE KIEFER: Mr. President, do I have an
19 opportunity to speak?

20 THE PRESIDENT: You do.

21 DELEGATE KIEFER: Mr. President and Ladies and

1 Gentlemen of the Convention, I rise to strongly urge the
2 rejection of this amendment. This is the very same thing
3 that this group rejected before. It is far beyond anything
4 that has ever been contemplated by any State anywhere and
5 if we put this in the Constitution here in the form that
6 it is now offered we are in real trouble.

7 Delegate Weidemeyer's suggestion was one that
8 we had talked about and which I thought the Committee had
9 generally approved in principle, but, nevertheless, let
10 me point out to you that there is not a single State in
11 this Union, there is not a single State that has anything
12 in its Constitution about a right to know.

13 Secondly, when we had the experts who were in
14 favor of this general concept over here, none of them,
15 general counsel to the Senate Committee and the other head
16 of the administrative chief of the House Committee once
17 said "Please leave out the Judiciary". The other said
18 "Please leave out the Legislature" and the second one said
19 there are dozens of examples where secrecy is needed and
20 there are dozens of examples where there is an overt amount
21 of secrecy.

1 This we know, but now the Legislature wants to
2 be in the position where the boards of education, the health
3 department, and all the organizations have to come down
4 and say please exempt us because we have certain problems.
5 Please do not put this in the Constitution. If you do,
6 you are really opening the door and the only way it can be
7 closed is by specific action of the Legislature.

8 Every court judiciary matter, there has never
9 been any question about the Judiciary system, but the
10 newspaper reports would record it every time the judge had
11 a conference with counsel because that is a government
12 procedure.

13 The Legislature has already been put in a
14 fish bown but if it can't make its own rules of procedure
15 it is going to be in sad disrepute.

16 I say to you ladies and gentlemen that this
17 amendment goes far beyond anything we have ever seen
18 anywhere and I ask that you reject it just as you did the
19 last time.

20 THE PRESIDENT: Any other delegate desire to
21 speak in favor?

1 (Cries of question.)

2 THE PRESIDENT: Delegate Willoner.

3 DELEGATE WILLONER: Mr. Chairman, I really rise
4 on a point of personal privilege. I would like this Body
5 to recognize the fact that Delegate Kiefer is speaking as
6 an individual and not as Chairman for the Committee.

7 I would also like to indicate to the Body that
8 Delegate Kiefer has obviously developed a closed mind
9 when he is talking about opening up -- he didn't listen to
10 what I said. This is a major change in this particular
11 provision in that the "all" has been stricken and this is
12 no stronger than the present public right to records that
13 we have today except that it is expanded to meetings.

14 The other thing is that he says the Legislature
15 can't even provide for their own rules. Not only does it
16 provide, if he read it carefully, not only does it provide
17 for the Legislature to protect its cause, it says otherwise
18 prescribed by law, but our definition in 7.06 allows if the
19 Legislature doesn't act, the local government is to act.

20 This is not the same amendment. Don't be fooled
21 by a man who is not speaking for the Committee.

1 THE PRESIDENT: Delegate Willoner, do you yield
2 to a question from Delegate Johnson?

3 DELEGATE WILLONER: I yield to Delegate Johnson.

4 THE PRESIDENT: Delegate Johnson.

5 DELEGATE JOHNSON: Delegate Willoner, because of
6 the problem that I know you are quite aware of concerning
7 certain records and certain non-public meetings that you
8 and I both and I am sure everyone feels certainly should
9 not be open to the public. I am speaking of court records
10 and other meetings. I am wondering if you would consent
11 to an amendment that would insert the phrase. This would
12 be on line 7, after the word "records", if you would insert
13 the phrase "as defined by law", so that your amendment
14 would read that governmental proceedings, meetings and
15 records as defined by law shall be open to the people, etc.

16 THE PRESIDENT: Delegate Willoner.

17 DELEGATE WILLONER: I think that is implicit in
18 the language, but if it would help clear up some problems
19 I won't have any objection to it.

20 May I say that the records now are open to the
21 public. There is a common law right to records. It has

1 been defined by the courts what your access to the records
2 is. It has been limited by the Legislature. I thought the
3 "exception as otherwise prescribed by law" would cover the
4 entire article. I thought I made that clear, but if you
5 feel that this would be an improvement, I would accept
6 the amendment.

7 THE PRESIDENT: What is your decision?

8 DELEGATE WILLONER: I would accept the amendment.

9 THE PRESIDENT: Do the co-sponsors object to the
10 acceptance of the amendment suggested?

11 DELEGATE DUKES: May I ask a question of
12 Delegate Johnson?

13 THE PRESIDENT: No, he doesn't have the floor
14 right now.

15 Do any of the co-sponsors object to the accept-
16 ance of the amendment by Delegate Willoner?

17 DELEGATE DUKES: I am a co-sponsor. I don't
18 know what it means.

19 THE PRESIDENT: All right. You can address your
20 question to the Chair. The suggestion is that after the
21 word "records" in line 7 there be inserted the words

1 "as defined by law".

2 DELEGATE DUKES: What would that be if there is
3 no legislation passed defining records?

4 THE PRESIDENT: Delegate Willoner, can you
5 answer the question?

6 DELEGATE WILLONER: Good question. In light
7 of my interpretation of the language I would assume that
8 it would be left again to the courts to decide by law
9 what governmental proceedings, meetings and records or
10 the -- well, if the General Assembly or a local unit of
11 government did not act, then it would be left to the courts.

12 THE PRESIDENT: Delegate Dukes.

13 DELEGATE DUKES: Does that mean if the General
14 Assembly does not act with respect to that particular
15 language, are you defining records that the amendment
16 then would read and would have the same effect as if the
17 wording were not there until the General Assembly did act?

18 DELEGATE WILLONER: Yes.

19 DELEGATE DUKES: I have no objection.

20 THE PRESIDENT: Any objection from any of the
21 other sponsors?

1 If not, is there any objection from any
2 delegate to the modification of the amendment in the
3 manner suggested?

4 The Chair hears none. The amendment will be
5 considered as modified. **After** the word "records" in line 7
6 add the words "as defined by law."

7 Delegate Willoner, the Chair puts this
8 question to you to avoid a problem later on. As these
9 words have been used heretofore, the Committee on Style
10 has I think uniformly considered the expression "by law"
11 to mean by statute. Your response a moment ago indicated
12 that you did not give it that meaning. I think this ought
13 to be clear.

DELEGATE WILLONER: I assumed that "prescribed by law" is different from "defined by law", and if it is not, the intent is that "defined by law" should mean defined by either the General Assembly or the unit of local government or the courts except that it is clear that the legislature would have the last say or the unit of local government.

THE PRESIDENT: Any other discussion? Are you ready for the question?

Delegate Marion.

DELEGATE MARION: Mr. Chairman, as I did when this amendment was before us in the Committee of the Whole, I rise rather reluctantly to speak against it, not because I don't favor the basic concept which is attempted to be embodied in this amendment, because I do.

I would first of all suggest that if Delegate Willoner feels he has limited the amendment in any way by not including the word "all", he is mistaken because whether you say governmental proceedings or all governmental proceedings, you are talking about all

1 governmental proceedings. The exception in line 9 and
2 10, to me, turns the amendment around the wrong way.
3 This was my objection to it when it came up before and
4 it seems to me that since it is clearly indicated by
5 sponsors and opponents of the amendment as well that
6 there are perhaps untold exceptions to this amendment,
7 that it puts the legislature in the untenable position
8 of having to act positively by an affirmative act
9 of the legislature to close the door and prevent a
10 proceeding from being open to the public. I think that
11 is a burden which should not be cast upon the legislature
12 or upon any governing body of a unit of local government.

13 I think the act of the legislature should
14 be an affirmative one to open to the public what it feels
15 should be open. I think Delegate Weidemeyer was on
16 the right track in suggesting that that be the way
17 the amendment be cast. Since it is not, I urge you to
18 reject the amendment.

19 THE PRESIDENT: Any other delegates desire
20 to speak?

21 Are you ready for the question?

1 The Clerk will ring the quorum bell.

2 The question arises on the adoption of
3 Amendment No. 6. A vote Aye is a vote in favor of the
4 amendment. A vote No is a vote against.

5 Cast your votes.

6 Has every delegate voted?

7 Does any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being fifty-seven votes in the
10 affirmative and fifty-eight in the negative, the motion is
11 lost and the amendment is rejected.

12 Delegate Willoner, do you desire to offer
13 your Amendment U?

14 DELEGATE WILLONER: Yes, Mr. Chairman.

15 THE PRESIDENT: Pages please distribute
16 Amendment U.

17 This will be Amendment 7.

18 The Clerk will read the amendment.

19 MR. QUILLEN: Amendment No. 7 to Committee
20 Recommendation No. R&P-1 and R&P-2 as amended by
21 Report No. SGD-9 by Delegates Willoner:

2. 8

1 On page 1 following line 21 add this new
2 section:

3 "Section 1. __. Freedom of Information
4 Freedom of information shall not be
5 abridged."

6 (Whereupon, the motion was seconded.)

7 THE PRESIDENT: The Chair recognizes
8 Delegate Willoner to speak to the motion.

9 DELEGATE WILLONER: This approach has been
10 preferred by many delegates. I preferred the direct
11 approach proposed by the founding fathers who said,
12 "Freedom of speech and the press shall not be abridged."

13 However, this is freedom of information --

14 DELEGATE BAMBERGER: I think at least in this
15 part of the room we have Amendment Q.

16 THE PRESIDENT: Amendment U for "uncle".

17 DELEGATE GALLAGHER: I hope Amendment Q will
18 not be thrown away because Delegate Willoner and Delegate
19 Kiefer are together, and I think it should be preserved
20 for posterity.

21 THE PRESIDENT: Delegate Willoner.

1 DELEGATE WILLONER: Amendment U. This is
2 the approach taken by our founding fathers at Philadelphia.
3 It recognizes the principle and leaves to the courts the
4 development of the principle.

5 As we all know, freedom of press and freedom
6 of speech are not absolute rights. Neither is freedom
7 of information. We are setting forth the principle that
8 freedom of information shall not be abridged.

9 THE PRESIDENT: Delegate Kiefer.

10 DELEGATE KIEFER: Mr. President and ladies
11 and gentlemen of the Convention, Delegate Willoner and I
12 are not as far apart as you think, but I have to
13 confess I don't know what he knows by this "freedom of
14 information shall not be abridged". I don't know what
15 it means. I am afraid it would open up all kinds of
16 questions.

17 I would be reluctant to favor or oppose
18 something I don't know anything more about than that. I
19 am not opposed to the right to know as set out by
20 Delegate Weidemeyer, but I don't believe this does it. I
21 would suggest caution in adopting this language which

1 is strange to any constitution as far as I know.

2 THE PRESIDENT: Any other discussion?

3 Delegate Adkins.

4 DELEGATE ADKINS: Would the sponsor yield to
5 a question if he has time?

6 THE PRESIDENT: Delegate Willoner, do you take
7 the floor to yield to a question?

8 DELEGATE WILLONER: I will yield.

9 THE PRESIDENT: This will be your second
10 speech and final one.

11 Delegate Adkins.

12 DELEGATE ADKINS: I would assume by this
13 amendment that you mean freedom of information of public
14 bodies. You do not really mean what you say here, do
15 you?

16 THE PRESIDENT: Delegate Willoner.

17 DELEGATE WILLONER: May I say that the entire
18 Bill of Rights goes to state action and not individual
19 action, and, therefore, it is public bodies that we are
20 discussing. These are rights between an individual and
21 the state.

The first part of the paper discusses the importance of the
 research and the objectives of the study. It also outlines the
 methodology used in the study and the results obtained. The
 second part of the paper discusses the implications of the
 findings and the conclusions drawn from the study. It also
 discusses the limitations of the study and the areas for
 further research. The third part of the paper discusses the
 significance of the findings and the contributions of the study
 to the field of research. It also discusses the practical
 applications of the findings and the recommendations for
 future research. The fourth part of the paper discusses the
 overall findings of the study and the conclusions drawn from
 the study. It also discusses the limitations of the study and
 the areas for further research. The fifth part of the paper
 discusses the significance of the findings and the contributions
 of the study to the field of research. It also discusses the
 practical applications of the findings and the recommendations
 for future research. The sixth part of the paper discusses
 the overall findings of the study and the conclusions drawn
 from the study. It also discusses the limitations of the study
 and the areas for further research. The seventh part of the
 paper discusses the significance of the findings and the
 contributions of the study to the field of research. It also
 discusses the practical applications of the findings and the
 recommendations for future research. The eighth part of the
 paper discusses the overall findings of the study and the
 conclusions drawn from the study. It also discusses the
 limitations of the study and the areas for further research.

1 THE PRESIDENT: Delegate Willoner, so the
2 record will be clear, and I am not sure whether this is
3 covered or not, there was a good deal of discussion at
4 the time of the consideration of this matter before
5 the Committee of the Whole as to whether the provision
6 then under consideration would, for instance, require
7 that records now secret, like adoption records and
8 so forth, be open to the public. This provision
9 which you have, Amendment 7, does not have any provision
10 giving the General Assembly the authority to define.
11 Following Delegate Adkins' question, is it intended that
12 freedom of information as used here would extend, for
13 instance, to court records, public records, and that
14 sort, Delegate Willoner?

15 DELEGATE WILLONER: It would apply to public
16 records and it would not apply to the records that you
17 suggested.

18 THE PRESIDENT: Any other discussion?

19 Ready for the question?

20 The Clerk will sound the quorum bell.

21 The question arises on the adoption of

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be carefully documented to ensure the integrity of the financial data. This includes recording dates, amounts, and the nature of the transactions.

The second part of the document outlines the procedures for reconciling the accounts. It states that the accounts should be reconciled at the end of each month to identify any discrepancies. This process involves comparing the internal records with the bank statements and ensuring that they match. If there are any differences, the reasons should be investigated and corrected.

The third part of the document describes the process of preparing the financial statements. It notes that the statements should be prepared on a regular basis, typically at the end of each quarter. These statements provide a summary of the financial performance of the organization and are used by management and external stakeholders to make informed decisions.

The fourth part of the document discusses the importance of internal controls. It states that a strong system of internal controls is essential for preventing fraud and ensuring the accuracy of the financial records. This includes implementing segregation of duties, requiring proper authorization for transactions, and conducting regular audits.

The fifth part of the document outlines the responsibilities of the accounting staff. It states that the staff should be trained in the latest accounting practices and procedures. They should also be held accountable for their work and encouraged to maintain a high level of accuracy and integrity in their reporting.

The sixth part of the document discusses the importance of transparency and communication. It states that the financial information should be communicated clearly and honestly to all stakeholders. This includes providing regular updates to management and being open to questions and inquiries from external parties.

The seventh part of the document outlines the process for handling errors and corrections. It states that if an error is discovered, it should be corrected as soon as possible. The correction should be documented and the reasons for the error should be investigated to prevent it from happening again.

The eighth part of the document discusses the importance of staying up-to-date with changes in accounting standards and regulations. It states that the accounting staff should regularly review the latest developments in the field and ensure that the organization's practices are in compliance with all applicable laws and regulations.

The ninth part of the document outlines the process for archiving financial records. It states that all records should be properly stored and maintained for a specified period of time. This ensures that the information is available for future reference and helps to protect the organization from legal risks.

The tenth part of the document discusses the importance of continuous improvement. It states that the accounting process should be regularly reviewed and refined to ensure that it remains effective and efficient. This includes seeking feedback from staff and stakeholders and implementing changes as needed.

1 Amendment No. 7. A vote Aye is a vote in favor of the
2 amendment; a vote No is a vote against.

3 Cast your votes.

4 Has every delegate voted?

5 Does any delegate desire to change his vote?

6 The Clerk will record the vote.

7 There being thirty votes in the affirmative
8 and eighty-two in the negative, the motion fails and
9 the amendment is rejected.

1 The Chair has no other amendments sponsored by
2 15 or more delegates. We will go back and pick up
3 consideration of amendments sponsored by one or fewer than
4 15 delegates.

5 Delegate Carson, do you desire to submit your
6 Amendment F -- F for Frank?

7 DELEGATE CARSON: Mr. Chairman, I don't have it
8 before me. Is that the one with reference to the debt
9 section?

10 THE PRESIDENT: It is, it is the amendment which
11 in line 43 on page 3 would insert the word ", providing"
12 after the word "court".

13 DELEGATE CARSON: Mr. Chairman, I do have it
14 now. Yes, I do offer it at this time.

15 THE PRESIDENT: Delegate Dulany, would you
16 still desire to offer your Amendment Z?

17 DELEGATE DULANY: Yes, but I would ask unanimous
18 consent to delete everything in the amendment (Laughter) --
19 excepting one word.

20 THE PRESIDENT: What word?

21 DELEGATE DULANY: I would like to delete everything
after the colon in line 5, all of lines 6 and 7, and

1 substitute in lieu thereof the word "dependent". This will
2 take two lines out of the constitution and will do exactly
3 what I wish to accomplish.

4 THE PRESIDENT: Well, the two amendments go to
5 the same lines, and I am trying to determine which should
6 be offered first and the other offered as an amendment or
7 substitute.

8 I don't think the two are inconsistent. I
9 will submit Delegate Carson's amendment first. Will the
10 Pages please distribute Amendment F -- F for Frank.
11 This will be Amendment No. 8. The Clerk will read the
12 amendment.

13 MR. QUILLEN: Amendment No. 8 to Committee
14 Recommendation Nos. R&P-1 and R&P-2, as amended by
15 Report No. S&D-9, by Delegate Carson.

16 On page 3 Section 1.12 Imprisonment for Debt
17 in line 41 insert a comma after the word "court"; and

18 In line 43 after the word "court" insert the
19 following: ", providing".

20 THE PRESIDENT: The amendment is submitted by
21 Delegate Carson. Is there a second?

22. 2. 1.

1 (Whereupon, the amendment was duly seconded.)

2 THE PRESIDENT: The amendment having been
3 seconded, the Chair recognizes Delegate Carson.

4 DELEGATE CARSON: Mr. Chairman, ladies and
5 gentlemen, the amendment before you is strictly one of
6 style and not one of substance, although I believe the
7 Style Committee has created a substantial change in this
8 section.

9 This section is intended to make it clear that a
10 person shall not be imprisoned for debt, but to create
11 within the section at least two exceptions and only those
12 exceptions to the imprisonment for debt.

13 One is if you have a valid decree of a court
14 providing for support for a wife, dependent children,
15 illegitimate children, or for alimony, and the other case
16 is in which you have an agreement which is embodied in
17 a valid decree and ratified by it and which also provides
18 for those things.

19 Now, if you will read the section as it is now
20 written, it does not say that. It says that any valid
21 decree of a court, any valid decree of a court, which might

3. 2. 1.

1 include a monetary judgment, would not be a debt. In
2 addition, it says that any agreement approved by a decree
3 which provides for support of a wife, dependent children,
4 illegitimate children or for alimony is not a debt, so this
5 is a technical amendment to straighten out and make it clear
6 that the words "for the support of a wife" through "or for
7 alimony" relate to a decree of a court or also an agreement
8 approved by a decree of a court.

9 THE PRESIDENT: Delegate Carson, it may be clear
10 to you that the amendment accomplishes what you intend, but
11 it is far from clear to the Chair.

12 Would you not also, to get the clarify you want,
13 have to add a comma after the word "court" in line 41?
14 If you did that, wouldn't you be able to get everything
15 you want with the addition of the two commas, and nothing
16 else?

17 DELEGATE CARSON: Mr. Chairman, you will note
18 that the first part of my amendment is to add a comma after
19 the word "court" in line 41.

20 THE PRESIDENT: I missed that.

21 DELEGATE CARSON: The second part is to add a

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then proceeds to discuss the various factors that have shaped the development of the United States, including the role of the government, the influence of the economy, and the impact of the culture. The paper concludes by emphasizing the need for a continued study of the history of the United States in order to ensure a bright future for the nation.

1 comma in line 43, and then after it add "providing". I
2 think the word "providing" is somewhat helpful.

3 THE PRESIDENT: Delegate Sollins.

4 DELEGATE SOLLINS: Mr. President, Delegates
5 Smith, Marion, Rybczynski and I have Amendment X which I think
6 will clear this up. We would like to offer it as a
7 substitute for Delegate Carson's amendment. It is the
8 amendment lettered "X".

9 THE PRESIDENT: The Pages will please distribute
10 Amendment X -- X for X-ray, and please get one to Delegate
11 Carson first, if you will, please.

12 Delegate Carson, would you look to see if you
13 would be satisfied to accept that as a substitute?

14 DELEGATE CARSON: Mr. Chairman, I don't think
15 this does it. I think this just makes it clear that there
16 are two different things involved, one of which is a valid
17 decree of court and the second of which is an agreement
18 approved by decree of a court providing for these various
19 measures.

20 THE PRESIDENT: I am inclined to agree, Delegate
21 Sollins, I think your amendment makes it worse rather than

10

1 better. I think the "either" would refer to the obligation.
2 Under the circumstances, do you still desire to offer your
3 Amendment X?

4 DELEGATE SOLLINS: Not at this time, Mr.
5 President.

6 THE PRESIDENT: Delegate Carson.

7 DELEGATE CARSON: May I ask Mr. Sollins if he
8 will now agree to accept mine, please?

9 DELEGATE SOLLINS: I don't think yours clears
10 it up, either.

11 THE PRESIDENT: Delegate Kiefer.

12 DELEGATE KIEFER: Mr. President, I don't think
13 we are quarreling about substance. We are trying to
14 get something straightened out here. I don't believe
15 that Delegate Carson's really does this, but if the
16 Convention will agree with me that the cases are clear
17 that a decree by a court, not based on agreement, but for
18 alimony, or for support of children, or for support of
19 illegitimate children, are within the police power and
20 are not covered by this, then I believe that if you cross
21 out line 41 the words "a valid decree of a court" so that it

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1 reads "but no obligation created by an agreement approved
2 by decree of a court for the support of a wife or of depend-
3 ent children or of illegitimate children or for alimony
4 shall not constitute a debt within the meaning of this
5 section", this is what we are really aiming at.

6 THE PRESIDENT: Well, let the Chair make a
7 suggestion. Delegate Dulany's amendment would substitute
8 for the long string of persons, beginning in line 43, one
9 person, "dependent".

10 What you are trying to modify here by the clause
11 at the end of the section is the word "obligation". It
12 seems to me you can do it in two ways. You can say
13 "no person shall be imprisoned for debt, but the obligation
14 for support of a wife, etc., etc., created by valid decree
15 or by an agreement", would do it.

16 If Delegate Dulany's amendment is accepted,
17 then it would also do it very simply.

18 Did you follow that, Delegate Carson?

19 DELEGATE CARSON: I did, Mr. Chairman, and
20 your suggestion seems to me would.

21 THE PRESIDENT: Let me suggest that we pass over,

10

1 for the moment, Amendment 8 and submit to you Delegate
2 Dulany's amendment, and then on the basis of the action
3 there we can tell what to do with Amendment 8.

4 Pages please distribute Amendment Z -- Z for
5 zebra.

6 For what purpose does Delegate Key rise?

7 DELEGATE KEY: Just to ask a question.

8 THE PRESIDENT: State the question.

9 DELEGATE KEY: Is there some difference in the
10 law as to the dependency of a child whether he is born
11 in wedlock or out of wedlock? In other words, is it
12 necessary to spell out a dependent child and then restate --

13 THE PRESIDENT: This is the purpose of Delegate
14 Dulany's amendment. If you will wait just a moment
15 you will see just what it is.

16 This will be Amendment No. 9. The Clerk
17 will read the amendment.

18 MR. QUILLEN: Amendment No. 9 to Committee
19 Recommendations No. R&P-1 and R&P-2 as amended by
20 Report No. S&D-9, by Delegate Dulany.

21 On page 3 Section 1.12. Imprisonment for Debt

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1 in lines 43, 44 and 45 strike out the following: "wife,
2 or of dependent children, or of illegitimate children," and
3 insert in lieu thereof the following: "spouse, or of a
4 dependent child or of an illegitimate child, or of a
5 dependent parent,".

6 THE PRESIDENT: Delegate Dulany desires to modify
7 the amendment by striking out everything in line 5 after
8 the colon and striking out all of lines 6 and 7 and sub-
9 stituting the word "dependent" so that the amendment
10 would then be insert in lieu thereof, that is in lieu of
11 the language stricken, the following: "dependent" --
12 just that one word.

13 Is there any objection to that modification?
14 The Chair hears none. The modification will be made.

15 In Amendment 9, line 5, strike out the words
16 "spouse, or of a de-", strike out all of lines 6 and 7,
17 and insert the word "dependent".

18 The amendment is submitted by Delegate Dulany.
19 Is there a second?

20 (Whereupon, the amendment was seconded.)

21 THE PRESIDENT: The amendment having been

1 seconded, the Chair recognizes Delegate Dulany.

2 DELEGATE DULANY: Before speaking on the amendment,
3 it has been suggested to me if we put the amendment after
4 the word "obligation" and say "for the support of a
5 dependent", "obligation for support of a dependent", and
6 then have it --

7 THE PRESIDENT: I am sorry, I didn't hear.

8 DELEGATE DULANY: Perhaps this is too confusing
9 to state, but it has been suggested to me on line 41 after
10 the word "obligation" if we put up in that position "for
11 the support of a dependent" we will then have cleared up
12 the ambiguity that most of the amendments have been offered
13 in an endeavor to correct.

14 THE PRESIDENT: I think that is true.
15 Would you like to so modify your amendment?

16 DELEGATE DULANY: If I may.

17 THE PRESIDENT: Is there any objection to modify-
18 ing the amendment in the manner indicated?

19 Delegate Weidemeyer.

20 DELEGATE WEIDEMEYER: I would like to ask
21 Delegate Dulany a question, as to why he has used the word

1 "spouse" instead of the word "wife".

2 THE PRESIDENT: He has not used any of these
3 words. He has used only the word "dependent". He has
4 stricken all the other words. The amendment is modified --
5 you perhaps didn't understand.

6 Let me give you the proposed new modification of
7 the amendment.

8 Delegate Dulany, I think it might be simpler to
9 rewrite the amendment. May I state it in this manner:
10 Amendment Section 1.12 by inserting after the word "obligation"
11 in line 41 the words "for the support of a dependent
12 or for alimony" and strike out all of lines 44 and 45
13 except the word "shall".

14 Is that the amendment?

15 DELEGATE DULANY: That is correct.

16 THE PRESIDENT: If that amendment is made
17 the section would read "No person shall be imprisoned
18 for debt, but an obligation for the support of a dependent
19 or for alimony created by a valid decree of a court by
20 an agreement approved by decree of a court shall not
21 constitute a debt within the meaning of this section."

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1 Delegate Mentzer.

2 DELEGATE MENTZER: It is a pleasure to welcome
3 all members of the committee to the Committee on Style.

4 THE PRESIDENT: Is there any objection to
5 considering the amendment as Amendment 9 even though it
6 is not printed?

7 The Chair hears none. Amendment 9 -- Delegate
8 Boyles.

9 DELEGATE BOYLES: Mr. Chairman, doesn't that
10 mean, then, that the phrase "created by a valid decree
11 of the court", and so forth, is the dependent created by
12 the valid decree of the court? Is this the intention?

13 I am not trying to write legal language, but my
14 English tells me the court doesn't create the dependent.

15 THE PRESIDENT: I wouldn't think so, Delegate
16 Boyles, if it is punctuated properly. "An obligation for
17 the support of a dependent or for alimony, created by", I
18 think would be clear.

19 Delegate Burdette.

20 DELEGATE BURDETTE: Perhaps, Mr. President,
21 you have solved the problem by using the comma, although
I think it is a little dubious.

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1 THE PRESIDENT: Well, I think at least the
2 problem for the Committee on Style is a little less.

3 Is there any objection to considering the amend-
4 ment even though not printed? The Chair hears none.

5 That is Amendment 9.

6 Delegate Dulany.

7 DELEGATE DULANY: Mr. President, I don't know
8 that I should add anything. I think we have cleared up
9 the language of the section.

10 THE PRESIDENT: I think everybody understands.

11 Delegate Carson, would that solve your problem
12 so that Amendment 8 could be withdrawn?

13 DELEGATE CARSON: Almost, Mr. Chairman. I think
14 if you added the words "created by" in front of "an agree-
15 ment", then you would have made it clear -- it is not
16 totally clear yet -- so it would read "an obligation for
17 the support of a dependent or for alimony, created by a valid
18 decree of a court of created by an agreement approved by
19 a decree."

20 THE PRESIDENT: Is there any objection to the
21 further modification?

1

1 Delegate Carson.

2 DELEGATE CARSON: Mr. Chairman, in light of
3 that, I will at this time withdraw my amendment.

4 THE PRESIDENT: Very well, Amendment 8 is with-
5 drawn. Amendment 9 is before you.

6 Is there any discussion?

7 Delegate Bamberger.

8 DELEGATE BAMBERGER: I would like to be certain,
9 Mr. President, that the word "dependent" does always include
10 illegitimate children.

11 THE PRESIDENT: Well, I would think, just
12 to answer it myself, in the context in which it is read,
13 an obligation for the support of a dependent would be
14 for the support of a person who was in the status of a
15 dependent regardless of his relationship, whether he had no
16 relationship if he were in fact dependent.

17 Is that what is intended, Delegate Dulany?

18 Delegate Dulany: That is correct. If
19 you will notice in my original amendment I mentioned
20 spouse rather than wife because under some circumstances
21 there can be a very wealthy member of the distaff side of

10

1 the family who has a dependent husband to support.

2 THE PRESIDENT: As I understand the use of the
3 word "dependent" it was not used in any legal sense but in
4 its ordinary normal English sense.

5 Delegate Singer?

6 DELEGATE SINGER: Mr. President, I have a
7 question of Delegate Dulany.

8 THE PRESIDENT: Delegate Dulany, will you take
9 the floor to yield to a question?

10 DELEGATE DULANY: Yes.

11 DELEGATE SINGER: In an instance where the
12 wife remarried, the children of the first marriage being
13 entirely supported by the second husband, would this relieve
14 the first husband of all duty to support those children,
15 or could it be enforced?

16 DELEGATE DULANY: As I understand the law,
17 the first husband is never relieved of the duty of
18 support unless the second husband adopts those children.

19 THE PRESIDENT: The chair suggests that
20 the discussion is far afield on this point, and perhaps
21 because you do not have the printed amendment.

5

1 What you are talking about here is an obligation
2 for support created in one of two ways -- either by decree
3 or alimony. You are not dependent upon the law generally
4 to define the obligation of support.

5 Delegate Singer?

6 DELEGATE SINGER: My confusion arises as to
7 whether or not this amendment changes the existing law.

8 THE PRESIDENT: I don't think there would be
9 confusion if the amendment were before you. I suggest
10 we pass it and come back to it, if we can have it printed
11 right away.

12 As the Chair understands the language, it would
13 not have the effect thought of.

14 DELEGATE GILL: A point of personal privilege.

15 THE PRESIDENT: State the privilege.

16 DELEGATE GILL: Mr. President and fellow
17 delegates, I would like for the convention to join in
18 congratulating one of our delegates for an award which he
19 receives Wednesday. He received this award, along with
20 four other people -- Gen. George Gelston, Father Joseph
21 Connaly, The Rev. Mr. Frank O. Wilson, and Judge George Russell

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1 It was from the Afro-American newspaper, and it
2 was their diamond jubilee honor roll award. The delegate
3 is Dr. Harry Bard.

4 THE PRESIDENT: Delegate Burgess.

5 DELEGATE BURGESS: Personal privilege.

6 THE PRESIDENT: State the privilege.

7 DELEGATE BURGESS: I would like to announce
8 the presence of the sister of Walter Finch, Mrs. Jane
9 Twamley, one of Mr. Finch's seven sisters, a school
10 teacher in Southern High School in Baltimore, Maryland.
11 (Applause).

12 THE PRESIDENT: We will psss over Amendment 9
13 for the moment. We will have a copy of the section
14 as it would appear for you very quickly.

15 Delegate Kiefer, do you wish to offer your
16 Amendment R to Section 1.13?

17 Delegate Willoner.

18 DELEGATE WILLONER: Yes, that is an amendment
19 primarily of style on which I think we will get pretty
20 much unanimous consent.

21 THE PRESIDENT: All right, will the pages

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1 please distribute Amendment R -- "R" for Roger.

2 We have a problem in that we are fast running out
3 of roll call sheets. The man is here to insert them. We
4 have to shut down when that is done. The Chair has advised
5 him he can have custody of the machine at six o'clock
6 promptly. We will have to recess at that hour.

7 This will be Amendment No. 10. The Clerk will
8 read the amendment.

9 MR. QUILLEN: Amendment No. 10 to Committee
10 Recommendation No. R&P-1 and R&P-2 as amended by Report No.
11 S&D-9, by Delegates Kiefer, Willoner, Johnson, Penniman
12 and Marion.

13 On page 4 Section 1.13. Jury Trial in Civil
14 Cases in line 10 strike out the words "not less than";

15 And in line 12 after the word "six" add the
16 words "or more than twelve".

17 THE PRESIDENT: The amendment having been sub-
18 mitted by Delegate Kiefer and seconded by the co-sponsors,
19 the Chair recognizes Delegate Kiefer.

20 DELEGATE KIEFER: Mr. President, ladies and
21 gentlemen of the Convention, this is purely to clean up this

1 language and make it clear that a jury will be of twelve
2 people in civil cases, though the General Assembly may
3 provide for not less than six nor more than twelve in
4 cases involving the District Court.

5 It is only a matter of clarification, and I
6 hope therefore we can pass it very quickly.

7 Delegate Burdette.

8 DELEGATE BURDETTE: Mr. President, I should like
9 to support the amendment, since I think I happen to be the
10 member of the Committee on Style who insisted that the
11 change could not be made because it is a change of
12 substance and not of style, but apparently it is desired
13 by all of the original movers as well as the committee,
14 and is desired by the Committee on Style.

15 THE PRESIDENT: Is there any discussion? Are
16 you ready for the question? The Clerk will ring the quorum
17 bell.

18 The question arises on the adoption of Amendment
19 No. 10. A vote aye is a vote in favor of the amendment;
20 a vote no is a vote against. Cast your vote.

21 (Whereupon, a roll call vote was taken.)

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1 THE PRESIDENT: Has every delegate voted?
2 Does any delegate desire to change his vote? the Clerk
3 will record the vote.

4 There being 104 votes in the affirmative and
5 none in the negative, the motion is carried, the amendment
6 is adopted.

7 Delegate Singer, did you get a copy of -- is
8 Delegate Singer out? See if Delegates Dulaney and Singer
9 are in the lounge and, if they are, ask them to come in.

10 Delegate Singer, have you seen a copy of the
11 section as it would be rewritten?

12 DELEGATE SINGER: No.

13 THE PRESIDENT: I think it is probably on your
14 desk. I asked the pages to get it to you.

15 Do you still have a question, Delegate Singer,
16 or are you satisfied?

17 DELEGATE SINGER: I am satisfied.

18 THE PRESIDENT: Very well. Amendment 9, which
19 is not printed, would make Section 1.12 read as follows:
20 "No person shall be imprisoned for debt, but an obligation
21 for the support of a dependent, or for alimony, created

1 by a valid decree of a court or created by an agreement
2 approved by a decree of a court, shall not constitute a
3 debt within the meaning of this section."

4 Does that state your intent, Delegate Dulaney?

5 DELEGATE DULANEY: That is correct, Mr. President.

6 THE PRESIDENT: Delegate Willoner.

7 DELEGATE WILLONER: Mr. Chairman, I have a
8 question to raise. This particular constitutional provision
9 had the language "dependent children" in, at one time,
10 and it was held not sufficient to cover illegitimate
11 children.

12 I assume "dependent" is assumed to be broad enough
13 to cover illegitimate children.

14 THE PRESIDENT: Delegate Dulaney stated earlier
15 the use of the word "dependent" is in no way limited by any
16 legal or other kind of relationship. It is intended to
17 describe a status which would exist regardless of any
18 relationship. Is that correct, Delegate Dulaney?

19 DELEGATE DULANEY: That is correct, Mr. President.

20 THE PRESIDENT: Delegate Carson, have you seen
21 the language of the section?

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1 DELEGATE CARSON: Mr. Chairman, the language is
2 agreeable to me.

3 THE PRESIDENT: Delegate Kiefer.

4 DELEGATE KIEFER: Mr. President, I don't want to be
5 cantankerous about this, but I am afraid this goes further
6 than was contemplated and further than the original amend-
7 ment or original recommendation of the committee.

8 I have no objection to it, but there has been
9 nothing in the law at this time which would allow an
10 imprisonment for debt for nonsupport of a parent. I
11 suppose it would be all right if we wanted to put it in,
12 but it is a new concept. I think we ought to understand that
13 we are doing something quite different than what we started
14 out to do.

15 I am not opposed to it, but I believe this is very
16 different from what the present constitution provides.

17 THE PRESIDENT: Except that it is not as broad as
18 you stated. It is limited to an obligation for the support
19 of such a dependent if it is incorporated in a decree,
20 otherwise not.

21 DELEGATE KIEFER: Does it also include if it is

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

1 by agreement incorporated in a decree?

2 THE PRESIDENT: Incorporated in an agreement
3 approved by a decree, but there must be a decree of court
4 or there is no obligation within the meaning of this
5 section.

6 Delegate Kiefer.

7 DELEGATE KIEFER: What I am saying, sir, is
8 that up until this time only those people covered by the
9 amendment or by the section as we originally submitted
10 it --

11 THE PRESIDENT: I understand. I merely said
12 that the statement you originally made was too broad. It
13 did not extend to obligations for the support of all
14 dependents but only where the obligation was either
15 created by a decree or created by an agreement incorporated
16 into a decree.

17 DELEGATE KIEFER: I understand that, sir, but
18 that is still far beyond what the present constitution
19 provides.

20 THE PRESIDENT: Very well. Are you ready for
21 the question? The clerk will ring the quorum bell.

1 The question arises on the adoption of Amendment
2 No. 9. A vote aye is a vote in favor of the amendment; a
3 vote no is a vote against. Cast your vote.

4 Has every delegate voted? Does any delegate
5 desire to change his vote? The clerk will record the
6 vote.

7 There being 106 votes in the affirmative and
8 5 in the negative, the motion is carried. The amendment
9 is adopted.

10 Delegate Betty Miller, the Chair was advised
11 you desired to make your motion to reconsider at this time
12 or after the dinner hour?

13 DELEGATE B. MILLER: Mr. Chairman, if we were to
14 reconsider now, could we complete reconsideration? I
15 would not like to break before we could take a vote.

16 THE PRESIDENT: We could not, if we have extended
17 debate. I have no idea of whether it is intended there be
18 further debate.

19 DELEGATE B. MILLER: I would imagine it would take
20 about twenty minutes. Could we meet for twenty minutes?

21 THE PRESIDENT: I should think so, but I would

1 not want to keep the person -- he is here from Richmond
2 and has to go back this evening. I gave him assurance he
3 could get in and I would not want to keep him unduly.

4 DELEGATE B. MILLER: I think we could do it in
5 twenty minutes. I would ask reconsideration of Amendment
6 No. 5 at this time.

7 THE PRESIDENT: If we do that, I think there
8 ought to be an understanding that an equal number of
9 persons on both sides be recognized alternately and
10 that speeches be limited to two minutes. Would that be
11 agreeable?

12 DELEGATE B. MILLER: All right.

13 THE PRESIDENT: Very well. There is a motion to
14 reconsider the vote by which Amendment 5 was adopted. Is
15 the motion seconded?

16 (The motion was duly seconded.)

17 THE PRESIDENT: The motion having been seconded,
18 the question arises on the motion to reconsider the vote
19 by which Amendment No. 5 was adopted. The Chair will
20 recognize Delegates desiring to speak in favor of or against
21 the motion alternately, limit each to two minutes, and the

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1 discussion will be on the motion to reconsider or on the
2 main question all at one time.

3 Delegate White.

4 DELEGATE WHITE: Mr. President, members of the
5 Convention, in the gallery facing the President we now have
6 with us my charming and talented wife, who is a teacher at
7 Douglas School in Baltimore, Maryland, and her favorite
8 brother, who incidentally is my brother-in-law, Dr. Emerson
9 Julian recently elected to the Baltimore City Council.
10 Let us make them welcome. (Applause.)

11 THE PRESIDENT: Immediately after the vote to
12 reconsider, if it passes, Amendment 5 will be submitted to
13 you without further debate.

14 The Chair recognizes Delegate Betty Miller.

15 DELEGATE B. MILLER: Mr. Chairman, fellow
16 delegates, what we are discussing here is a specific
17 right of the people, a right to establish democratic
18 procedures in their working places.

19 Under President Roosevelt this new right was
20 recognized for most workers by the National Labor Relations
21 Act. Under President Eisenhower, its procedures were

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1 regulated and formalized by the Taft-Hartley Act. President
2 Kennedy extended this right to federal government employees
3 by Executive Order 10,988.

4 Now the trend is to extend this right to those
5 employees in the states who do not yet enjoy it. What
6 the proposal does is an affirmative extension of this
7 right in the Maryland constitution to benefit that
8 segment of our economy which does not enjoy these rights
9 now by reason of this single omission. This is not a right
10 for the protection and aid of those who are covered by
11 federal statute. It does nothing for the members of the
12 established great unions of our state. This is a right to
13 aid the poverty stricken, the underpaid workers, those who
14 are not now covered by minimum wage laws, or who just come
15 under the new minimum wage laws, the borderline poverty
16 workers unprotected and unrepresented, and the great and
17 growing army of public employees who are falling behind
18 their private industry counterparts.

19 It is inconceivable that you men and women of
20 good will, with the best intentions toward the citizenry,
21 would fail to protect these people whom most merit your

1 concern. We are not here granting any new rights but
2 extending existing ones to a whole group of neglected
3 workers many of whom labor at wages far below the poverty
4 level. I have often marveled at the wage-earner who
5 struggled through a 40-hour week at 80 cents an hour, when
6 a welfare check would far exceed that.

7 THE PRESIDENT: Your time has expired.

8 DELEGATE B. MILLER: I plead for those workers.
9 Please support the reconsideration.

10 THE PRESIDENT: Does any delegate desire to
11 speak in opposition to the motion? Delegate Harry Taylor.

12 DELEGATE H. TAYLOR: Mr. President, I get
13 letters from a person who signs them as an admirer. From
14 the tenor of the letters sometimes I don't think that he
15 really is, but over the holidays, after we had incorporated
16 this right to organize provision in the Constitution, he
17 sent me a little sink, and he said, "It looks like you
18 fellows have put everything in the Constitution but the
19 kitchen sink. I want you to take this down, and maybe
20 somehow or other you can work it in."

21 It isn't really a sink, it is a stove. When I

1 made the discovery and it got back to the admirer, he
2 said, "Well, I didn't think you would know the difference."
3 (Laughter.)

4 We are not down here to pass constitutional
5 provisions for labor. We are not down here to pass
6 constitutional provisions for preachers, and, believe it
7 or not, we are not down here to pass constitutional
8 provisions for lawyers or for judges. We came down here
9 for a very simple task -- to set up an executive, a
10 judicial, and a legislative branch of government, to provide
11 for a declaration of rights, and to provide for some
12 general provisions.

13 This provision on right to organize is a volatile
14 provision that is going to pit labor against management.
15 It is going to be one of those things that may make this
16 Constitution an Edsel instead of a Mustang.

17 You probably remember the Edsel motor car -- it
18 looked like an Oldsmobile that had been sucking on a lemon.
19 When Ford Motor Company sent that out to the public, they
20 thought they would buy it.

21 On May 14, we are going to find out whether we

1 have got an Edsel or a Mustang. If you want to build a
2 Mustang, vote against this motion to reconsider.

3 THE PRESIDENT: Does any other delegate desire
4 to speak in favor? Delegate Mitchell.

5 DELEGATE MITCHELL: Mr. President and fellow
6 delegates, that may be funny to Delegate Taylor, but it is
7 not funny to the overwhelming majority of the adult
8 citizens of the state. We have heard some specious and
9 fallacious arguments today. You have heard a very learned
10 former judge and a representative of big business say that
11 this pertains to just a class of people.

12 We have written into this Constitution rights for
13 the accused, and that is a small class of citizens in this
14 state. We have written in rights -- and I would say the
15 majority of the citizens, judging by the church attendance,
16 are nonreligious, but we have protected the rights of those
17 that want to exercise their right of religion to have
18 free worship.

19 Now, I would suspect that the real reason for the
20 laughter and for the change is the kind of a letter I got
21 today, and of all things from a man from whom I bought my

1 last car -- Anderson Chevrolet, Mr. H. L. Hosford,
2 President. He had the nerve to threaten this Constitutional
3 Convention saying, "I do hope you will reconsider and change
4 your vote to 'no' before final approval of the Constitution.
5 I find it so disturbing I will have to do everything
6 possible to campaign for the nonpassage of the new
7 constitution when it comes to a vote by the citizens of
8 Maryland."

9 The employers are few; the working people are the
10 masses. I would say, in the words of Judge Bzeslon of the
11 Court of Appeals of the District of Columbia Circuit Court,
12 who is quoted in Life Magazine on October 21, 1966, on rights,
13 "Some people because they have money and intelligence are
14 tall enough to reach them, others, because they are poor are
15 too short. Do you say that is just too damned bad, or do
16 you give the short guys a box to stand on?"

17 I would urge that you reconsider this motion to
18 give the short guys, the working people who are the majority
19 of the adult citizens of this state, give them the right
20 to sit at the bargaining table rather than take to the
21 streets to get fair wages for their labor, which is all they

1 have to offer in the marketplace.

2 THE PRESIDENT: Delegate Scanlan.

3 DELEGATE SCANLAN: It is always very difficult to
4 follow such eloquent ladies, ladies so devoted to their
5 cause and so familiar with the cause that they espouse, but
6 again I suggest their arguments are better directed to
7 the General Assembly of this State, and not to the
8 Constitution.

9 Delegate Bothe, who led the fight for the
10 original provision which you have stricken and is now before
11 you on reconsideration, admitted the fact that this matter
12 was better handled by statute, but the time had come, she
13 said, in view of the development of this nation, to put the
14 right into the constitution.

15 If that was the end of the matter, I would be
16 with them, but that is not the end of the matter. Unlike
17 the rights of free speech, free assembly and free exercise
18 of religion, the right to bargain collectively must of its
19 nature be regulated and implemented by the General Assembly.

20 I will give you a simple example. You have a
21 plant, a business. Some of the employees are laborers,

1 some are machinists, some are electricians, some are
2 painters.

3 Query: is there going to be one collective
4 bargaining group, one collective bargaining organization
5 for the whole plant, or are there going to be four or
6 five?

7 Second query: is it going to be by plurality of
8 the voters or by a majority of the voters, or can each
9 individual unit have its collective bargaining representa-
10 tive?

11 Third query: how long does the effect of the
12 collective bargaining representation election last? Can
13 they have one next month, or must they wait a year, or
14 two years?

15 In point of fact, this is a right that can only
16 have meaning if implemented by statutory implementation and
17 regulation. It cannot be set in a vacuum; to do so is a
18 snare and a delusion. Unlike some of the exhortations of
19 the majority, some of you have seen fit to put in the
20 Constitution, this one means something. This is a substantive
21 right, "employees shall have the right to organize and

1 bargain collectively."

2 It means that the General Assembly, if that language
3 stands, might be prohibited from implementing and regulating
4 that right in a meaningful way, not only to protect the
5 employees but to protect the public of this State.

6 THE PRESIDENT: Your time has expired.

7 DELEGATE SCANLAN: I suggest it is to the
8 General Assembly of Maryland these eloquent arguments should
9 be addressed, not to the Constitutional Convention.

10 THE PRESIDENT: Delegate Pullen.

11 DELEGATE PULLEN: Mr. Chairman, I should like to
12 speak as calmly and as dispassionately as possible.
13 I believe that this is a fundamental right. I think it is
14 merely an extension of that statement we have approved,
15 "The people shall have the right peaceably to assemble and
16 to petition the government for redress of grievances, each
17 person remaining responsible for the abuse of those rights."
18 I believe this honestly and sincerely and, sir, I take my
19 stand; God helping me I can do no other.

20 THE PRESIDENT: Delegate Kiefer.

21 DELEGATE KIEFER: Mr. President, I had hoped not

1 to speak on this, but Delegate Pullen being a neighbor and
2 a long-standing friend, I must answer him to this extent.

3 I noted in the paper the other night -- and you
4 all have a copy of it -- where Delegate Bothe claims the
5 union has nothing to do with it. If anything, she said, it
6 grew out of her work with the American Civil Liberties
7 Union, a long-time backer of the bargaining concert.

8 We had the American Civil Liberties' spokesman
9 before our committee on another matter. They claimed, "We
10 are in favor of this particular principle of abolition of
11 capital punishment; we will try to get it through the
12 Constitutional Convention and if we can't get it there we
13 will try through the legislature. If we don't get it
14 there, we will try to get it through the courts, anywhere and
15 everywhere we can."

16 I came down here not representing Catonsville,
17 Maryland, not representing Baltimore County, not repre-
18 senting suburban or rural, black or white, or any other
19 thing. I came down here representing all of the people of
20 Maryland, and I think when we put something in here that
21 divides the people, where there are some people who are in

1 favor of it, some class that is protected against some
2 other class, I say to you, ladies and gentlemen, we are
3 not doing what the constitution really requires, and I have
4 got to urge that you vote against reconsideration.

5 THE PRESIDENT: Delegate Gallagher.

6 DELEGATE GALLAGHER: Mr. President, and ladies
7 and gentlemen, it seems to me today from watching the
8 proceedings of this convention that the weariness and
9 fatigue is getting to us, and I regret that there appears
10 to be lacking a sense of concern and a sense of compassion.

11 I don't think that we want to pass an antiseptic,
12 sterile constitution; I think we want to pass a constitution
13 that is meaningful to the people.

14 Now, it is pure folly for those who argue the case
15 that we ought not to get into this because this is a
16 private matter. The economics of the situation are quite
17 obvious. Government has a legitimate interest in seeing
18 to it that there is labor peace, and that there is harmony
19 and mutual cooperation in the areas where economic stability
20 is so important, and certainly bargaining done in a proper
21 fashion is one of the best ways of getting economic

1 stability.

2 I agree with Delegate Scanlan when he says it
3 will need implementation, but I say to you that you would
4 do a greater service to the State of Maryland and to the
5 people of Maryland by writing the basic plank into the
6 constitution. I do think that in the midst of all our
7 political science approaches we ought to remember that we
8 are down here representing people, not just sterile machines.
9 It seems to me, ladies and gentlemen, it is time for some
10 compassion, it is a time for some heart, and I hope it
11 shows in the way you vote.

12 THE PRESIDENT: Delegate Jett.

13 DELEGATE JETT: Mr. Chairman, fellow delegates, I
14 think what we must remind ourselves is that we are writing
15 a constitution for all the people. Leaf through your
16 Bill of Rights and look at it in comparison with this item.
17 Each other item in the Bill of Rights applies to most every
18 other man, woman and child in this State. This would apply
19 to one group, a divisive group, something that is going to
20 divide us, something that is going to separate us.

21 I say to those who favor labor that management

1 is to be represented here. Management has just as much
2 right to come into this convention and ask for a right to work
3 provision. I say to you that neither one of them belong
4 in this constitution.

5 I like to think that we here are writing a great
6 anthem for the future. It is not an anthem that calls
7 for solo work or choral groups, but it is an anthem that
8 can be sung by all the people with all their voice and with
9 all their might that with this instrument we are looking
10 forward to a great future for all of the citizens of
11 Maryland, with special privileges for none but equality
12 for all, and with that I ask you to please vote against this
13 reconsideration.

14 THE PRESIDENT: Delegate Kirkland.

15 DELEGATE KIRKLAND: Mr. Chairman, sitting here
16 listening to some of these people expound with relation to
17 what does and what does not belong in the constitution concerns
18 me a great deal, because some of these gentlemen I gave
19 the opportunity just the other day to express themselves
20 quite clearly with relation to what does and what does not
21 belong in the constitution.

1 Making particular note of the people who are
2 speaking in relation to this proposal also concerns me.
3 I happen to be a teacher. I happen to know that teachers
4 throughout the nation are seeking this kind of legislation,
5 this kind of constitutional right.

6 I think in time that they are going to achieve
7 this, and I think it would be a credit to the state of
8 Maryland to include such an article in the constitution in
9 this 1967.

10 THE PRESIDENT: Does any other delegate desire
11 to speak in opposition?

12 Delegate Gilchrist.

13 DELEGATE GILCHRIST: Mr. President, I should
14 like the convention to know what Bradford Jacobs in the
15 Evening Sun said on this question. "Probably the consti-
16 tutional convention bent over backward to accommodate the
17 labor lobbyists. Probably labor should not have been
18 singled out, as it seems to have been, for the favor of
19 a special narrow bill of rights of its own nestled inside
20 the general broad bill of rights. Probably, as a result,
21 the new constitution will be marred. It will have a curious

1 special interest bulge at a point where no bulge ought to
2 be in a document framed for all Marylanders, not for a
3 few here and there".

4 Bradford Jacobs goes on to point out the problems
5 which are inherent in this kind of a situation. I suggest
6 to you that those of us who came down here to write this
7 constitution should not do anything at all to provide the
8 means by which this convention can commit hari-kari, whether
9 it be be a single fell-swoop of disembowling, or whether it
10 be by a bunch of small stabs. We have made some small
11 stabs at it.

12 I sincerely hope that this convention will
13 afford as few opportunities as possible for the stabs which
14 are going to be taken at us as they have been in the past.
15 Some of us have seen a particularly scurilous sheet
16 that got spread around here by an outfit calling themselves
17 "Con-Con Guards" a couple of weeks ago. This is the sort
18 of ammunition that is food for the people who don't under-
19 stand what we are trying to do. Let's not give them any
20 more food than is absolutely necessary. Let us not be
21 divided.

1 THE PRESIDENT: Delegate Rybczynski.

2 DELEGATE RYBCZYNSKI: Mr. President, employees
3 are the public, employees are the people.

4 There is another issue which should be touched
5 on, and I don't remember hearing about it on this particular
6 issue. It isn't just a question of the next raise or the
7 next set of vacations or the next year's working conditions.
8 There is a lot more attached to bargaining than just these
9 items.

10 After a man has been part of a plant and an
11 employee at a plant for a matter of months or years, he
12 has certain vested interests in that job which can be
13 protected only collectively and not as an individual. He
14 becomes part of a group insurance plan, he becomes part
15 of a group pension plan, he acquires certain rights as an
16 employee only through collective bargaining.

17 It isn't just a question of worrying about
18 whether or not he can get the vacation that he wants next
19 year. There is a lot more to it than that. When he
20 reaches a certain age, if he is arbitrarily fired from
21 that job he will have extreme difficulty finding another

1 job unless he has a very peculiar specialty. There is a
2 lot more involved in this question than just what they
3 generally think of as bargaining rights.

4 THE PRESIDENT: There is time for one more --
5 it would be two more.

6 Does any other delegate desire to speak in
7 opposition?

8 If not, there is time for one other speaker.
9 Delegate Hanson.

10 DELEGATE HANSON: Mr. President, if we are to
11 suddenly become pure and worry about special interest
12 bulges in the constitution, some of us have a long list
13 of bulge removers that we would like to apply, but I think
14 this amendment is a very, very important amendment. It
15 won't apply to every citizen of Maryland, only to the
16 overwhelming number of citizens of Maryland.

17 It doesn't help anybody but the poor people of
18 this state, those who are not now covered by the National
19 Labor Relations Act.

20 I submit to you it is a matter of constitutional
21 stature. We have given ample protection through the due

1 process clause and the eminent domain clause to the rights
2 of property for those who hold property as property normally
3 is defined in the law and in constitutions as real property.

4 What we seek to do in this amendment is to give
5 an equal protection under this constitution to those whose
6 only property is their labor. Labor and property are
7 equal parts of the economy of this state, and labor
8 and property ought equally be protected by the constitution
9 of this state.

10 There is no danger to the public welfare here.
11 The General Assembly has ample power to protect the public
12 welfare against strikes and to develop the kinds of labor
13 standards and regulations of which Delegate Scanlan spoke.
14 I implore you to reconsider and then to vote for
15 the amendment, to protect equally an important and vital
16 segment of the people of this state.

17 THE PRESIDENT: The time having expired, the
18 questionarises -- Delegate Borom, for what purpose do you
19 rise?

20 DELEGATE BOROM: May I address an inquiry to
21 you?

1 THE PRESIDENT: State the inquiry.

2 DELEGATE BOROM: Delegate Gilchrist did quote
3 from the Sun Paper a while ago and I think it is really
4 out of context.

5 I would like the privilege from the chair to
6 complete one paragraph. I won't be speaking extemporan-
7 eously.

8 THE PRESIDENT: Very well.

9 DELEGATE BOROM: This is quoting Bradford
10 Jacobs in The Sun.

11 "There is one distinct undisputed blessing.
12 Labor, which got what it wants, seems certain to support
13 the new constitution when it is tested at the polls next
14 spring. Management, which got other things, can't grace-
15 fully work against it, neither may like the company, but
16 both will be pushing there standing side by side."

17 THE PRESIDENT: The question arises on the vote
18 to reconsider. A vote aye is a vote in favor of re-
19 consideration. A vote no is a vote against. This is
20 not a vote on the amendment. If the motion to reconsider
21 carries, the Chair will then submit to you for adoption or

1 rejection Amendment 5 without further debate. The vote
2 now is on the motion to reconsider. a vote aye in favor of
3 reconsideration, a vote no against. Cast your votes.

4 Has every delegate voted? Delegate James Clark?

5 DELEGATE J. CLARK: I vote no.

6 THE PRESIDENT: Delegate James Clark votes no.

7 Does any delegate desire to change his vote?

8 The clerk will record the vote.

9 There being 64 votes in the affirmative and 58
10 in the negative, the motion to reconsider is passed.

11 The question now arises on Amendment 5. A vote
12 aye is a vote in favor of Amendment No. 5, which would
13 delete the section 1.17; a vote no is a vote against
14 Amendment No. 5, which would leave Section 1.17 in the draft
15 subject to further consideration and amendment.

16 The question now arises on Amendment No. 5.
17 A vote aye a vote in favor of the amendment; a vote no a
18 vote against. Cast your vote.

19 Has every delegate voted? Delegate James
20 Clark.

21 DELEGATE J. CLARK: I vote aye.

THE PRESIDENT: Delegate James Clark votes aye.

1 Does any delegate desire to change his vote?

2 Delegate Carson.

3 DELEGATE CARSON: I am confused, myself. Will
4 you explain again what a vote yes is?

5 THE PRESIDENT: Yes, I will -- particularly
6 because I switched the lever the wrong way myself.

7 So that there will be no misunderstanding about
8 it, let me remind you that when we had Amendment 5 before
9 us before there were three other amendments which would
10 have amended the Section 1.17 in the draft. They were
11 withdrawn when Amendment 5 was adopted. Amendment 5
12 deleted the entire section.

13 I would assume that if Amendment 5 is adopted
14 again that these other amendments would not be offered.
15 I would assume that if Amendment 5 is not adopted, is
16 rejected, that the Section 1.17, being then before you
17 and open to further amendment, we would consider the other
18 amendments. Inasmuch as the time at which we must adjourn
19 is here, it could not be done until after the dinner hour,
20 but it would be the purpose of the Chair to put the
21 amendments to you immediately thereafter.

1 The vote now is on Amendment 5. Amendment 5
2 deletes all of section 1.17. A vote aye, therefore, is a
3 vote in favor of the amendment to delete the entire section;
4 a vote no is a vote against the amendment, leaves the
5 section as it is on page 4 of your draft -- a vote aye in
6 favor of deletion, a vote no a vote against.

7 Is there any further question? Has every
8 delegate voted? Delegate Boyce.

9 DELEGATE BOYCE: This is the first time we have
10 had a vote on the board where there has been a ten-minute
11 explanation before it was tallied. Could we tally it,
12 please, sir?

13 THE PRESIDENT: I have always responded to any
14 request to explain the matter before the Committee for
15 vote. This is no departure from that rule.

16 Does any delegate desire to change his vote?
17 The clerk will record the vote.

18 There being 59 votes in the affirmative and 60
19 in the negative, the motion is lost. The amendment is
20 rejected.

21 Are there any announcements necessary to be made

1 by committee chairmen before we recess for dinner? Are
2 there any announcements by anyone else?

3 Any delegate present now not present at roll
4 call may indicate his presence by supplemental roll call.

5 Delegate James Clark.

6 DELEGATE J. CLARK: My machine didn't register
7 that time, Mr. Chairman, and I vote aye.

8 THE PRESIDENT: Delegate James Clark voted aye.
9 There being a tie vote, the amendment is still rejected.

10 Delegate Borom?

11 DELEGATE BOROM: Personal privilege, Mr.
12 President.

13 THE PRESIDENT: State the privilege.

14 DELEGATE BOROM: Delegate White, who is
15 efficient and thorough, goofed -- and he is going to have
16 to account for it when he goes home tonight. He failed
17 to introduce his nieces and nephew, Libby, Rosie, Emerson
18 Julian, Jr., who are in the balcony also. I hope you will
19 welcome them. (Applause.)

20 THE PRESIDENT: The Chair recognizes Delegate
21 Dulaney.

1 DELEGATE DULANEY: Mr. President, the meeting
2 of the Committee on Public Information, scheduled for this
3 evening, is cancelled. It is rescheduled for eleven
4 o'clock tomorrow morning.

5 THE PRESIDENT: The Chair recognizes Delegate
6 Powers.

7 DELEGATE DULANEY: I would also like to recognize
8 in the balcony an observer, Professor Robert Neal, from
9 the Mt. St. Mary's College in Emmitsburg.

10 THE PRESIDENT: We are delighted to have you.
11 (Applause.)

12 THE PRESIDENT: Delegate Power.

13 DELEGATE POWERS: Mr. President, I move we
14 recess until eight o'clock.

15 THE PRESIDENT: Let me remind you before we
16 recess that the section 1.17 is still before you.
17 Immediately after the recess, we will consider the other
18 amendments.

19 All in favor of the motion to recess signify by
20 saying aye; contrary no. The ayes have it. It is
21 so ordered.

1 (Whereupon, at 6:26 p.m., the Convention was
2 recessed to reconvene at 8:00 p.m.)
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Reported by:
Dorothy Fitzgerald

1 EVENING SESSION

2 December 29, 1967 - 8:25 p.m.

3 THE PRESIDENT: The Sergeant at Arms will clear
4 the aisles and close the doors.

5 The Convention will please come to order.

6 Roll call.

7 Has every delegate answered roll call?

8 The Clerk will record the roll call.

9 There being a quorum present, the Convention
10 is in session.11 We resume consideration of the report of the
12 Committee on Style, Drafting, and Arrangement with respect
13 to Committee Recommendations R&P-1 and R&P-2.14 As announced just prior to the dinner recess,
15 we would still have under consideration Section 1.17. The
16 three amendments thus far passed up to the Chair would
17 be in order. The Chair has been advised that there will
18 be at least three motions to reconsider the vote on
19 Amendment No. 5.20 In view of the closeness of the vote, it is
21 perfectly obvious that to consider the matter further at

1 this time will result only in a great loss of time and
2 effort and slow down the work of the Convention considerably.
3 There have been conversations going on over the dinner
4 recess in an effort to see whether or not it is possible
5 to reach substantial accord on a proposition that would
6 receive the approval of the great majority of delegates.

7 It is certainly not possible nor desirable
8 to try to do this in a matter of a few minutes. We
9 undoubtedly will have to sit tomorrow because although
10 I anticipate that the session this evening will continue
11 quite late, we certainly cannot finish, and it is
12 imperative that we finish this week so that we will resume
13 this session at noon tomorrow.

14 I have talked to representatives of both sides
15 of the question on Amendment 5. All are in agreement that
16 it would be most undesirable to have the matter of Section
17 1.17 considered again tomorrow afternoon. Accordingly,
18 the Chair proposes to recognize Delegate Powers for the
19 purpose of moving a division of the question to separate
20 consideration of Section 1.17 from the rest of Committee
21 Recommendation R&P-1 and then to recognize Delegate

1 Powers to make that a special order of business for
2 consideration at two o'clock on next Tuesday afternoon.
3 This will give an opportunity to both sides in the dispute
4 to consider the matter further, and I would have every
5 hope that a reasonable solution could be arrived at which
6 would secure the very decided approval of the Convention.

7 The Chair recognizes Delegate Powers.

8 DELEGATE POWERS: Mr. President, I move that
9 Section 1.17 of Committee Recommendation S&D-9 dealing
10 with Committee Recommendations R&P-1 and R&P-2 be made a
11 separate matter and that as such it be made a special
12 order of business for Tuesday, January 2, at 2:00 p.m.

13 THE PRESIDENT: I think it would probably
14 be desirable to put it in the form of two motions. The
15 first motion would be to separate the question as to
16 Section 1.17 from the remainder of R&P-1 and R&P-2.

17 The parliamentarian tells me that under the
18 rules we don't actually need a vote. If I as Chairman
19 conclude that the question can be separated, it can be
20 separated at the request of any delegate. Delegate
21 Powers requests that it be separated. It is obviously a

1 separate question. Therefore, it can be separated.

2 The question arises on motion of Delegate
3 Powers to make further consideration of Section 1.17 a
4 special order of business on Tuesday afternoon, January
5 2, 1968, at 2:00 p.m. Is there a second?

6 (Whereupon, the motion was seconded.)

7 THE PRESIDENT: Are you ready for the question?

8 All in favor signify by saying Aye; contrary
9 No.

10 The Ayes have it, and it is so ordered.

11 Will the pages please distribute the amendment
12 marked "AA". This is Amendment 9 on which we acted just
13 before the dinner recess, the change to Section 1.12.

14 Delegate Grant, do you desire to offer your
15 Amendment Y?

16 Pages will please also distribute Amendment Y.
17 Amendment Y will be Amendment 11.

18 The Clerk will read the amendment.

19 MR. QUILLEN: Amendment No. 11 to Committee
20 Recommendation Nos. R&P-1 and R&P-2 as amended by Report
21 No. S&D-9 by Delegates Grant and Bothe:

1 On page 4 immediately preceding line 45,
2 Section 1.18. Reserved Rights insert the following new
3 section:

4 "Section 1. __. Restraint Pending Trial

5 A person awaiting trial shall be subject only
6 to such restraint as necessary to insure appearance at
7 trial."

8 THE PRESIDENT: The amendment is submitted by
9 Delegate Grant and seconded by Delegate Bothe. The
10 Chair recognizes Delegate Grant.

11 DELEGATE GRANT: This will be a matter that can
12 be dealt with briefly. As reported out by the Committee
13 to the Committee of the Whole, there was a provision to
14 propose for the new Constitution which essentially resulted
15 in pre-trial release. The provision which was initially
16 reported out was somewhat long and complex and for that
17 reason was subjected to a great deal of amendment and
18 finally was voted down.

19 The provision which was reported out said:
20 "Section 5(b). An accused, except in cases punishable by
21 death or life imprisonment, shall be entitled to release

1 pending trial conditioned only upon such bail or other
2 terms as are reasonably necessary to secure his
3 appearance before the Court."

4 The amendment which I have proposed is the same
5 thing expressed in some simpler terms. "A person awaiting
6 trial shall be subject only to such restraint as necessary
7 to insure appearance at trial."

8 The basic idea is to make the right not to
9 be incarcerated without a trial a right instead of a
10 privilege. As it is right now when a person is arrested
11 and being held for trial, they can be released formerly
12 only on bail. There are some experimental projects being
13 financed mostly by private money and foundation money
14 which allows bail substitution.

15 However, the basic idea is wrong of trying to
16 incarcerate somebody before the trial at which they may
17 have well been proved to be innocent.

18 The fact remains that most people that are
19 arrested are essentially poor people. The bulk of these
20 people cannot afford the fees of a bondsman to release
21 them from prison. The bulk of these people, there is no

1 reason to keep them in prison. Once again, with the bulk
2 of these people there is a hardship in keeping them in
3 prison in that the man is usually the breadwinner for
4 his family and the family goes without the breadwinner
5 and it also goes without the head of the household. The
6 man may be in prison anywhere from up to three to four
7 months, as all the attorneys here know, and then brought
8 to trial at which time the case is either nolle prosequi
9 because they figure he spent enough time in jail already
10 or else it results in acquittal. In any event, the man is
11 incarcerated for a period of time without a trial. This
12 simply shifts the burden on the other foot. It makes it
13 necessary for the state to establish that the man must be
14 incarcerated or else he will not be available for trial.

15 Now, I point out to you that we do not use the
16 word "accused" for it is a simple matter that you can
17 do the same thing with witnesses. This makes it a right,
18 not a privilege, to be released from incarceration without
19 a trial.

20 THE PRESIDENT: Delegate Kiefer, will you wait
21 just a moment.

1 Deleqate Grant, the Chair has a question. I
2 assume that this is intended to refer only to a person
3 awaiting trial for a crime, is it? Is this correct?

4 DELEGATE GRANT: That is correct.

5 THE PRESIDENT: It does not say so. I wonder
6 if --

7 DELEGATE GRANT: It said a person awaiting
8 trial. This could be either a person held as a material
9 witness or else a person being held as a prospective
10 defendant at the trial.

11 THE PRESIDENT: But not a person awaiting trial
12 of a civil case?

13 DELEGATE GRANT: No, not a person awaiting
14 trial of a civil case. Subject to those exceptions in
15 which there are civil proceedings, which are criminal --

16 THE PRESIDENT: I just raised the question to
17 ask whether you think your amendment ought to indicate that
18 it is not intended to be applicable in civil proceedings.

19 DELEGATE GRANT: No, Mr. President, I do not
20 think it should be changed. I can envision cases where you
21 may have a ne exeat writ issued if they would wish

1 to restrain a person. It would be a general application.

2 THE PRESIDENT: For what purpose does Delegate
3 Gilchrist rise?

4 Delegate Grant, will you yield to a question?

5 DELEGATE GRANT: Yes.

6 DELEGATE GILCHRIST: In whose judgment is
7 "restraint as necessary" placed? Is this an ex post
8 facto thing and is this to be determined at the time and
9 in whose judgment?

10 THE PRESIDENT: Delegate Grant.

11 DELEGATE GRANT: It would be determined by the
12 person before whom the person is brought to be incarcerated.
13 In other words, it is necessary when you are arrested to
14 be brought before either a committee magistrate or a judge
15 or some other official. The same official that would
16 establish bond or other pre-trial restraint would be the
17 one who would judge this. It would be subject, of course,
18 to administration by the court by rule.

19 THE PRESIDENT: Delegate Gilchrist.

20 DELEGATE GILCHRIST: Would it also be subject
21 to appeal?

1 THE PRESIDENT: Delegate Grant.

2 DELEGATE GRANT: It would certainly be subject
3 to appeal in the nature of a writ of habeas corpus.

4 THE PRESIDENT: Delegate Kiefer.

5 DELEGATE KIEFER: Mr. President and ladies
6 and gentlemen of the Convention, the Committee on Personal
7 Rights and Preamble adopted as part of its recommendations
8 in R&P-1 the language that was read to you by Delegate
9 Grant. This was the subject of a minority report which
10 turned out to be in a sense a majority report because
11 nine members of the Committee were on this. This was
12 led by Delegate Child, and I feel that, sir, I would
13 like to yield the floor to Delegate Child.

14 THE PRESIDENT: Delegate Child.

15 DELEGATE CHILD: Mr. President, we already have
16 in the Bill of Rights the provision that excessive bail
17 shall never be required. This would fix another bail
18 proposition, and it was exactly for that reason that I
19 filed a minority report on language very similar to this,
20 although this language is even broader than the other
21 provision.

1 Under our present language which has been in the
2 Constitution for the last three Constitutions of the
3 State of Maryland, there has developed in Maryland under
4 the Act of 1965 a statute which says that a person may
5 be released on his own recognizance in cases where
6 necessary known as the Bail Reform Act, and the consti-
7 tutional provision, constitutional authority, for
8 enacting that statute was simply: Excessive bail shall
9 not be required.

10 Also, there is a full set of rules in the
11 Court of Appeals which fixes the various provisions
12 under which a person can be released. They don't
13 attempt to say to any judicial officer because the
14 release of a person awaiting a criminal trial is a matter
15 of judicial discretion and under this simple provision
16 excessive bail shall not be required under our statute.

17 And, under our rules of the Court of Appeals
18 we have all the provisions necessary and, therefore, I
19 hope that we will not take too much time with this
20 amendment and we will vote down this amendment.

21 THE PRESIDENT: Any other delegate desire to

1 speak?

2 Delegate Bothe.

3 DELEGATE BOTHE: Mr. President, I desire to
4 rise briefly in support of the amendment which we debated
5 at some length in the Committee of the Whole. I won't
6 repeat those arguments, but I would like to point to one
7 little news item that I acquired since the debate here in
8 the Committee.

9 On December 22 of this year the Baltimore
10 Evening Sun reported that there were one hundred and
11 fifty-two prisoners under eighteen years of age who
12 would spent Christmas Day and did spend Christmas Day
13 in the Baltimore City Jail of whom one hundred and
14 seventeen were youthful violators awaiting trial.

15 The article goes on to say that most of the
16 young prisoners awaiting trial had been there one, two,
17 or three months. One sixteen year old had been there
18 twenty-two months and another eight months.

19 Now, Judge Child can refer to the rules of
20 the Court of Appeals, he can refer to the section that has
21 been in our Constitution which says excessive bail shall

1 not be required. He can point to all of those things, but
2 I will point to those young people who spent this last
3 Christmas in the Baltimore City Jail, and they spent it
4 there for one reason only. That reason was that they
5 did not have the money to pay a bail bondsman to bail them
6 out. The evidence is clear that if these young people
7 had been out, the odds of their failure to appear at trial
8 would have been no greater than if they had the money.

9 We have had enough experimentation now to have
10 it clearly proven that money bail is not the means to
11 bring people to trial. It is instead the means to
12 incarcerate them whether they are guilty or innocent and
13 while they are still presumed to be innocent. This
14 right is just as fundamental and more important than
15 even the right to counsel because as a lawyer who has been
16 frequently assigned to defend indigent people accused
17 of crime, I can tell you that more often than not, whether
18 the defendant is found guilty or innocent, the judge says
19 he has been in jail how ever many months and typically, it
20 is three or more, and he releases him at the time of the
21 trial.

1 We have many rights of the accused spelled out
2 in the new Constitution which are of much smaller importance.
3 No man should be incarcerated unless he has been adjudged
4 guilty of a crime and is serving a sentence, and I suggest
5 that this constitutional provision would end this nefarious
6 practice in our state.

7 THE PRESIDENT: Delegate Henderson.

8 DELEGATE HENDERSON: I rose to discuss this
9 provision when it was brought up before, and I simply
10 want to remind you that this matter, in amplification of
11 what Judge Child has said, is presently under consideration
12 by the legislative council and jointly with the Rules
13 Committee of the Court of Appeals. A sub-committee of
14 the Rules Committee, I understand, is ready to report to
15 the whole committee at a meeting which has been called
16 for January 5 so that this whole problem which I agree is
17 a difficult one is being dealt with in the best possible
18 fashion, jointly by the legislature and the Rules
19 Committee.

20 The problem is not quite as simple as it
21 seems on its face because it is necessary to have some

1 investigation of a person's background if he is charged
2 with a serious crime before he can be allowed to run at
3 large and somebody who is responsible should know whether
4 he is likely to appear. That requires some investigation
5 and some caseworkers. That has been the approach to it.

6 I suggest that this process is underway and
7 will be continued and that adopting or rejecting this will
8 not expedite it one iota.

9 Furthermore, it seems to me by putting it in the
10 Constitution in such broad terms you may create more
11 problems than you solve because this amendment is obviously
12 designed for witnesses in civil cases and all sorts of
13 things which certainly would require some legislation or
14 rules to implement and that process is now well underway
15 so it would be my thought that it would be unwise and
16 unnecessary to include it in the Constitution.

17 THE PRESIDENT: Delegate Koger.

18 DELEGATE KOGER: Mr. Chairman and ladies and
19 gentlemen, I think this is a very necessary amendment.
20 We have heard so many things that the legislative council
21 has under consideration that if you go to the legislative

1 reference room you will find it a graveyard of things of
2 this kind.

3 We should consider which things are evident
4 in what we are considering now. To Judge Child I want to
5 say when you have to post a five hundred dollar bond, it
6 will cost you about fifty dollars. I don't know whether
7 you know that around Baltimore very few people have
8 fifty dollars to put up to pay for a bond. That means
9 whether they are guilty or innocent, they have to be put
10 in jail. I think this is a most necessary amendment.

11 It says in here "to such restraints as
12 necessary". I recall having served on a grand jury. I
13 recall on one occasion where a lady who had been criminally
14 attached was put in jail as a witness because she was
15 unable to do anything about it. She was held against
16 herself as a witness. There are conditions such as these
17 that this amendment, I think, will cure.

18 Therefore, I think this amendment should be
19 supported, and it is a very necessary one in order to
20 obtain justice for people.

21 THE PRESIDENT: Delegate Burdette, do you

1 desire to speak in opposition?

2 DELEGATE BURDETTE: I do not, Mr. President.
3 I wish to seek information.

4 THE PRESIDENT: State your inquiry.

5 DELEGATE BURDETTE: My inquiry is not
6 parliamentary, but merely to discover which provisions
7 in law amplify this language here to take care of a
8 situation in which the problem is not necessary to assure
9 appearance, but necessary to insure that a extraordinarily
10 dangerous criminal does not continue to commit similar
11 crimes.

12 THE PRESIDENT: I will permit you to put the
13 question to Delegate Grant if we find out first if other
14 delegates desire to speak.

15 Do any other delegates desire to speak in
16 opposition?

17 Delegate Fox, do you desire to speak in
18 favor?

19 DELEGATE FOX: Very, very briefly, sir.

20 THE PRESIDENT: Proceed.

21 DELEGATE FOX: I am most reluctant to disagree

1 with Judge Child because there is no one in this Convention
2 for whom I have more respect and more admiration. When
3 Dale Adkins and I get into a dispute back down home, we
4 get Judge Child to arbitrate. I have to remind him and
5 remind all the delegates that in Wicomico, Worcester and
6 Somerset Counties there is no way to get bail. There is
7 no bail bondsman. There is a fly-by-night man that
8 sometimes, if you can catch him and pay him some money,
9 will be able to bail you out, but there isn't any bail
10 bond service.

11 Unless the people who have got the key realize
12 they have an obligation to turn the man out if they
13 possibly can, rather than to keep him if they possibly
14 can, all the provisions we have in the present law with
15 regard to bail really don't do much good. If you get
16 locked up on Friday night and you haven't got the where-
17 withal, it may be very well Monday or Tuesday. This
18 happens to youngsters very frequently who go to Ocean
19 City during the summer time. They are charged with such
20 serious offences as being charged with drinking beer.
21 They will spend the weekend in jail and their parents

1 will have to drive down from Baltimore to get them
2 bailed out or what is worse, they will call me at two
3 o'clock in the morning and get me to ride over to Ocean
4 City to get them bailed out. I rise in support of the
5 amendment.

6 THE PRESIDENT: Delegate Grant, will you yield
7 to a question by Delegate Burdette?

8 DELEGATE GRANT: Yes.

9 DELEGATE BURDETTE: If you have not heard the
10 question, I will restate it.

11 DELEGATE GRANT: Please restate it.

12 DELEGATE BURDETTE: I am simply uninformed
13 whether there is some other provision at law which will
14 take care of the perhaps rare problem, but none the less
15 real problem, that there is no real good faith question
16 about the accessibility of a person for trial, but the
17 problem really is that he is a dangerous criminal and
18 would continue to repeat the crimes such as in the case
19 of some person who killed a number of nurses in Chicago and
20 what are you going to do with him even if you can definitely
21 prove that he would be available for trial?

1 THE PRESIDENT: Delegate Grant.

2 DELEGATE GRANT: Actually, it is a two-headed
3 question.

4 First of all, if you have someone who is a
5 menace to public peace, then he should be charged with that
6 and this practice that they have of picking up somebody
7 on a very minor offense when they are actually after him
8 on a major offense and couldn't pick him up on the major
9 offense because they don't have the evidence, is one of
10 the rottenest practices in all American law and should
11 be stopped.

12 As far as keeping the peace, you could always
13 put him under a peace bond. Also, the question comes up
14 as to what restraint is necessary. You could restrain
15 him as you find necessary. If you find a man like in
16 the Speck case who is a homicidal maniac, you can certainly
17 have him committed as insane and put him in an
18 institution. This does not allow you to pick someone
19 up on a speeding ticket when you are after him on a
20 murder wrap. In other words, you have got to have the
21 evidence, you can't proceed to put him in on one offense

1 when you are after him for another.

2 DELEGATE BURDETTE: I think you answered my
3 question, but you still did leave me puzzled. Doesn't
4 this constitutional language simply say that all of these
5 restraints upon a person who may be imagined to be
6 insane or who may be homicidally criminal cannot be
7 employed because of this language?

8 DELEGATE GRANT: This amendment says either
9 fish or cut bait.

10 THE PRESIDENT: I think you are missing the
11 question that Delegate Burdette is putting to you if I
12 may restate it. His question is: If this amendment is
13 incorporated in the Constitution, will a person charged
14 with crime, any crime, serious or minor, about whose
15 appearance at trial there isn't any question, be restrained
16 because he is a menace either to himself or to the public
17 or would this provision prevent what you now say is
18 possible?

19 DELEGATE GRANT: This would not prevent someone
20 who is a menace to the public from being charged with a
21 menace to the public and being dealt with that way. It

1 would prevent someone who is a menace to the public
2 being charged with another offense and held on a pretense
3 under the other offense. They have got to arrest him for
4 the offense of which he is suspected.

5 DELEGATE BURDETTE: Suppose he is a menace
6 to the public and there is no question that he would
7 appear for trial as a menace?

8 DELEGATE GRANT: The judge would simply have to
9 issue a bench warrant and charge him with the other
10 offense. That is what would be the procedure.

11 THE PRESIDENT: Again, I don't know that you
12 quite caught the question. If you charged him with the
13 other offense, namely, of being a menace to himself or
14 the public, but there was still no question about him
15 appearing to answer that charge, would this prevent his
16 incarceration pending the trial?

17 DELEGATE GRANT: I follow what you mean. No,
18 I don't interpret it that way. The only thing you can
19 get into is a sanity area and you can charge that right
20 there and give the necessary mental examination. You
21 would have to do it promptly and then do what is necessary

1 if he is criminally insane.

2 THE PRESIDENT: Delegate Carson.

3 DELEGATE CARSON: Mr. Chairman and ladies and
4 gentlemen, I would like to speak against the amendment.
5 I had the experience of prosecuting a large number of
6 criminal cases for several years and in that time I found
7 that there were many cases in which dangerous defendants
8 who had threatened witnesses, who had threatened others,
9 and sometimes even had threatened the Courts came before
10 the Court for consideration for bail.

11 Now, I am in favor of bail reform, but I do
12 think the Court ought to have the discretion to consider
13 in those rare cases where a person has threatened others
14 whether or not he ought to be released, and I think this
15 is necessary and desirable. I am sure in my experience
16 people are walking the streets today, witnesses and
17 victims of crime, who might well not be walking the
18 streets had their assailants and those who attacked
19 them been out on bail pending trial. This is a rare
20 instance, but an important one.

21 Also, with regard to pre-trial mental

1 examination, I do not know the effect of this amendment,
2 and I fear that the effect of it may be to limit and
3 perhaps to destroy altogether the right to have a person
4 examined prior to trial either for his competency to
5 stand trial or his mental condition at the time of this
6 alleged threat.

7 A vote against this amendment is not a vote
8 against bail reform. This is a vote against putting
9 something in the Constitution which goes much too far and
10 should be handled by rule and by statute and, therefore,
11 I urge your vote against it.

12 THE PRESIDENT: Delegate Bamberger.

13 DELEGATE BAMBERGER: I should like to respond
14 to Judge Henderson's comment about the Legislative
15 Council. My understanding from the Legislative Council
16 is that they have taken no action on the proposal for
17 bail reform and are making no report at this session of the
18 General Assembly.

19 Secondly, I think we are missing the point. If
20 a man is a dangerous criminal and has propensities to
21 commit a crime while awaiting trial, he may not be held if

1 he has enough money to make bail. I cannot imagine that
2 in the case of a man who cannot raise bail that if he is
3 a person who is so irresponsible and anti-social as to
4 be a threat to the Court or the witnesses or other
5 people, that anybody could disagree with the judgment of
6 the magistrate that a man with those kinds of criminal
7 tendencies is going to be so responsible as to come to
8 trial. Do you believe for a minute that somebody who
9 says "I am going to shoot the judge or shoot a witness"
10 will say "Don't worry, I will come back to trial next
11 Thursday". I think that is ridiculous. That man isn't
12 going to come back for trial and he can be held.

13 All that this says is that the price of your
14 freedom shall not be money and keep that in mind. You
15 may threaten the judge and threaten the witness and be
16 a terribly dangerous person and you have a right to bail
17 and if bail is set and you have the money you can walk
18 out. If you don't have the money, you can't walk out.

19 What this amendment does is to insure that
20 judgment shall be made based not upon the person's wealth,
21 but merely upon the essential fact whether or not he will

1 return for trial. I urge you to support the amendment.

2 THE PRESIDENT: Delegate Bennett.

3 DELEGATE HOSTETTER: Mr. President, for three
4 and a half months I have sat in Committee meetings at
5 the Convention and have listened to all the pleas for the
6 poor and downtrodden criminal and at this point, sir, I
7 believe I have heard about as much as I would like to
8 hear, and I should like to move the previous question.

9 THE PRESIDENT: Any further discussion?

10 Are you ready for the question?

11 The Clerk will ring the quorum bell.

12 The question arises on the adoption of
13 Amendment No. 11. A vote Aye is a vote in favor of the
14 amendment. A vote No is a vote against.

15 I am sorry. The question arises on the motion
16 to order the previous question. All in favor signify
17 by saying Aye; contrary No.

18 The Ayes have it, and it is so ordered.

19 The question now arises on the adoption of
20 Amendment No. 11. A vote Aye is a vote in favor of the
21 Amendment. A vote No is a vote against.

1 Cast your vote.

2 Has every delegate voted?

3 Does any delegate desire to change his vote?

4 The Clerk will record the vote.

5 There being forty-six votes in the affirmative
6 and sixty-four in the negative, the motion is lost and
7 the amendment is rejected.

8 The next amendment, Delegate Willoner, do you
9 desire to offer your amendment?

10 DELEGATE WILLONER: No.

11 THE PRESIDENT: Thank you.

12 Delegate Dukes, do you desire to offer your
13 amendment, Amendment O?

14 DELEGATE DUKES: I believe Amendment O was
15 the amendment we previously treated as the Style Amendment,
16 Mr. President, and I did not offer it. It is the only
17 one I know about.

18 THE PRESIDENT: Amendment O is the one simply
19 to transfer the position of the section on sovereign
20 immunity.

21 DELEGATE DUKES: That is the amendment that I

1 decided not to offer earlier, and I would still not
2 like to offer it.

3 THE PRESIDENT: I am sorry. Thank you very
4 much.

5 Delegate Willoner, has an amendment which is
6 in the process of being printed, it has not yet been
7 printed. If you will get before you your Amendment No.
8 6, it is a variation of Amendment 6, the Chair can
9 state it to you.

10 The amendment would accept the suggestion
11 made during the earlier debate by Delegate Weidemeyer and
12 in line 9 strike the words "except as otherwise" and in
13 lieu thereof insert the words "to the extent and in the
14 manner". It completely reverses the necessity of having
15 action by the General Assembly. Is there any objection
16 to considering the amendment although not printed? It
17 is in the process of being printed now.

18 The Chair hears none.

19 This is to the unnumbered section on page 4.
20 You will refer to your Amendment 6. This is adding a
21 new section. It does not relate to any section now in

1 the Committee Recommendation dealing with freedom of
2 information.

3 As the section proposed to be included would
4 be amended, it would read as follows: Governmental
5 proceedings, meetings, and records as defined by law
6 shall be open to the people and prior notice of such
7 proceedings or meetings shall be provided to the extent
8 and in the manner prescribed by law.

9 Is there any objection to considering the
10 amendment although it is not yet printed?

11 The Chair hears none.

12 This will be Amendment No. 12.

13 The Clerk will read the amendment.

14 MR. QUILLEN: Amendment No. 12 to Committee
15 Recommendation No. R&P-1 and R&P-2 as amended by Report
16 No. S&D-9 by Delegates Willoner, Dukes, Macdonald, Maurer,
17 B. Miller, Pascal, F. C. Robey, Schloeder, Schneider,
18 Sherbow, Sickles, Singer, Sollins, Sosnowski, and Stern:

19 On page 4 immediately preceding line 45 of
20 Section 1.18. Reserved Rights add the following new
21 section:

1 "Section 1. __. Freedom of Information
2 Governmental proceedings, meetings, and records
3 shall be open to the people to the extent and in the
4 manner prescribed by law."

5 THE PRESIDENT: The amendment is presented
6 by Delegate Willoner and seconded by the co-sponsors.

7 The Chair recognizes Delegate Willoner.

8 DELEGATE WILLONER: This is essentially the
9 same language as we had provided by 4, but it makes an
10 essential change. It no longer requires the presumption
11 that meetings will be open. It states the principle and
12 provides that the legislature shall provide for the
13 principle.

14 The vote was so close before. It was by one
15 vote. There are several people who wish to vote on
16 it. I think that it is possible if I could have held the
17 votes, this is not easy, there would have been a majority
18 for the other language.

19 However, I think we should try to get consensus
20 here and this has the support of those people who have
21 objected to this change of presumption and it does state

1 the principle, a very important principle, but it allows
2 it to be developed by the legislature.

3 THE PRESIDENT: Delegate Willoner, for
4 clarification, may the Chair ask a question?

5 Is the concluding clause "to the extent and in
6 the manner prescribed by law" intended as a modification
7 of all that precedes or only as the modification of the
8 immediately preceding clause that prior notice of such
9 proceedings or meetings shall be provided?

10 DELEGATE WILLONER: It is intended to modify
11 the entire section.

12 THE PRESIDENT: Gramatically, it would seem
13 not to be the case. I take it you would be content
14 to have the Committee on Style change it?

15 DELEGATE WILLONER: I would. I didn't want to
16 tamper with the language because it was adjusted on the
17 floor before. I will leave it to Style. The intent was
18 that the extent and manner by law should apply to govern-
19 mental meetings, proceedings, records, as well as the
20 notices of those proceedings.

21 THE PRESIDENT: Delegate James.

1 DELEGATE JAMES: Mr. Chairman, this proposal
2 worries me. It seems to me that the legality of most
3 governmental actions might be well in the balance. We
4 are voting on something without having it before us. For
5 instance, this proviso concerning notices, are the
6 county commissioners going to have to run a notice for
7 every meeting, or are they going to have to run a notice
8 at the beginning of each week saying they have to meet
9 each Monday morning at ten o'clock? Will the Governor
10 have to give notice when he has a meeting with his
11 staff? It seems to me this is reaching the height of
12 absurdity. I hesitate voting on this unless I see it in
13 some written form because it may change the common law rule.

14 Everything is a public record now except that
15 which the legislature says shall be confidential. I
16 think that is a general rule. Now, we may be jeopardizing
17 that rule by an unwritten amendment. I am just worried
18 about it.

19 THE PRESIDENT: Delegate Kiefer.

20 DELEGATE KIEFER: Mr. Chairman and ladies and
21 gentlemen of the Convention, this has almost gotten to

1 the point where it is acceptable, and I have the same
2 reservations that Delegate James has. I had thought that
3 Delegate Weidemeyer's amendment or proposal would read
4 something like this: Governmental proceedings, meetings,
5 and records shall be open to the public to the extent
6 and in the manner provided by law. That is what the New
7 York Constitution provided, but this thing of the prior
8 notice worries me just as it worries Delegate James.

9 If you would make that amendment, Delegate
10 Weidemeyer, I would be very happy to go along with it
11 because I think it would be legitimized.

12 THE PRESIDENT: You mean Delegate Willoner's
13 motion. Did you understand the motion?

14 DELEGATE KIEFER: I think Delegate James
15 misses the entire point.

16 THE PRESIDENT: Did you understand the suggestion
17 made by Delegate Kiefer?

18 DELEGATE JAMES: The suggestion was, I guess,
19 to strike out the language, "and prior notice of such
20 proceedings". Is that correct?

21 THE PRESIDENT: Yes.

1 DELEGATE JAMES: The only thing is that it is
2 "to the extent", it meant what notice the legislature
3 shall set out is required.

4 THE PRESIDENT: The only question you are
5 called upon to answer is Delegate Kiefer's question.
6 Would you be willing to amend your motion so as to
7 strike the language in lines 8 and 9 "and prior notice
8 of such proceedings or meetings shall be provided" in
9 accordance with Delegate Kiefer's request? You don't
10 have to. We just ask you, will you?

11 DELEGATE JAMES: All right.

12 THE PRESIDENT: Does the "all right" mean that
13 you accept the suggestion?

14 Is there any objection to considering the
15 amendment modified to strike in lines 8 and 9 the words
16 "and prior notice of such meetings or proceedings shall
17 be provided"?

18 The Chair hears none.

19 The amendment will be so modified.

20 Delegate Henderson.

21 DELEGATE HENDERSON: I would like to ask

1 Delegate Willoner if he will reply to a question as to
2 this phrase "as defined by law". It seems to be a little
3 out of place now. "Governmental proceedings, meetings,
4 and records" as defined by law. What does that mean?
5 Does that include, for example, any judicial proceedings?
6 You are not suggesting that the jury would not have a
7 right to retire and consider its verdict without having the
8 press present, are you?

9 DELEGATE WILLONER: Obviously, the Judge
10 didn't hear me explain this before when it was in the
11 area of a presumption. It wouldn't even apply to that
12 situation, Judge, and you know better. That language
13 I thought would be stricken along with it because that
14 language would have nothing to modify when you have "to
15 the extent ad manner as prescribed by law".

16 It would be entirely up to the legislature
17 or the local governmental body to decide what they shall
18 open and what they shall not open.

19 THE PRESIDENT: The Chair didn't understand
20 that. Your modification also goes to striking out of
21 line 7 the words "as defined by law"?

1 DELEGATE WILLONER: That would be no longer
2 necessary then. There wouldn't be any doubt.

3 THE PRESIDENT: Is that what you desire to do?

4 DELEGATE WILLONER: Yes.

5 THE PRESIDENT: Very well. The words "as
6 defined by law" are no longer in the amendment. It
7 now reads: "Governmental proceedings, meetings, and
8 records shall be open to the people to the extent and in
9 the manner prescribed by law".

10 DELEGATE HENDERSON: And "governmental
11 proceedings" do not include judicial proceedings. Is
12 that your answer?

13 THE PRESIDENT: Delegate Willoner?

14 DELEGATE WILLONER: I have difficulty in
15 answering the question. I don't understand that. If
16 the legislature has the power now to provide for opening
17 up of the juries, and I frankly haven't given it any
18 thought, then, I suppose, they would have the power to
19 do it under the section. This is not to change any
20 power they have. It is to state the principle to be
21 spelled out by the legislature. If anybody thinks that

1 the legislature would extent it to jury proceedings,
2 it is just beyond belief, to me at least.

3 THE PRESIDENT: Delegate Case.

4 DELEGATE CASE: Well, will Delegate Willoner
5 yield to a question?

6 THE PRESIDENT: We haven't been observing the
7 rules. Delegate Willoner has already exhausted his
8 trips to the floor. We will give him one more. This
9 will be it.

10 Delegate Willoner, do you yield to another
11 question?

12 DELEGATE WILLONER: Yes.

13 THE PRESIDENT: Delegate Case.

14 DELEGATE CASE: Delegate Willoner, what
15 happens if the legislature doesn't provide anything by
16 law? Then what is open?

17 THE PRESIDENT: Delegate Willoner.

18 DELEGATE WILLONER: The present state of the
19 law would be unchanged.

20 THE PRESIDENT: Delegate Case.

21 DELEGATE CASE: I am not sure it would. I

1 think this is subject to the interpretation that every-
2 thing would be closed. If that is true, isn't your
3 amendment defeating the whole purpose of what you are
4 trying to achieve?

5 THE PRESIDENT: Delegate Willoner.

6 DELEGATE WILLONER: It is not.

7 THE PRESIDENT: Any further discussion?

8 Delegate Dukes.

9 DELEGATE DUKES: When we discussed this matter
10 earlier, the very point that Delegate Case raised was
11 raised at the time as to whether or not the amendment
12 suggested by Delegate Weidemeyer substantially in the form
13 as it now stands as accepted by Delegate Willoner would
14 not, in effect, say that only those items as prescribed
15 and defined by the legislature would be open. If that
16 is so, then the present amendment suggested by Delegate
17 Willoner does away with the common law right to public
18 information and does a whole lot more harm than what we
19 had in the first place.

20 Also, if I am not mistaken, I know that I
21 argued and Delegate Chabot and if I am not mistaken

1 Delegate Willoner agreed with it either on the floor or
2 back in the room with me. I sure hope he says something
3 because I don't know how to vote.

4 DELEGATE PULLEN: Mr. Chairman, I am not sure
5 which side I am speaking on. After I get through, I
6 will give you the privilege of deciding.

7 (Laughter)

8 DELEGATE PULLEN: For thirty years I was either
9 the deputy or the assistant or the head of a state
10 department. We gave, not only gave notice of our meetings,
11 but we had visitors and we gave notice to the newspaper
12 people. The only problem was misapprehension in some
13 cases. The main problem was to get the newspaper people
14 to listen to us long enough to understand what we were
15 talking about, and I suggest, sir, that we try to bring
16 this thing to a head and let all public business be
17 public property.

18 THE PRESIDENT: For what purpose does Delegate
19 Willoner rise?

20 DELEGATE WILLONER: In the light of the
21 discussion and the history that has been made, I feel

1 that I have no alternative but to withdraw this particular
2 amendment.

3 THE PRESIDENT: Amendment No. 12 is withdrawn.

4 The Chair has no other amendments to Committee
5 Recommendations R&P-1 and 2. Are there any? If
6 not, the Clerk will please ring the quorum bell.

7 Delegate Stern.

8 DELEGATE STERN: I would like to move for
9 reconsideration of Amendment No. 2 and hope that it can
10 be done without any debate.

11 THE PRESIDENT: The motion to reconsider the
12 vote by which Amendment No. 2 was rejected, is there a
13 second?

14 DELEGATE BOROM: Second.

15 THE PRESIDENT: The motion is seconded.

16 DELEGATE DUKES: There is at least one meeting
17 other than this meeting in which several delegates are
18 involved which is going on at this time. Is there some
19 way we can bring them in?

20 THE PRESIDENT: Tell me where they are, and I
21 will send the Sergeant at Arms for them.

1 DELEGATE DUKES: I don't know, but I know
2 Delegate Kirkland is gone.

3 (Laughter)

4 THE PRESIDENT: The Sergeant at Arms will
5 proceed to the Lounge and any delegates there will proceed
6 forthwith to the Chambers.

7 DELEGATE ROBIE: The Committee on Transitory
8 Provisions is meeting in the Senate Chambers.

9 THE PRESIDENT: The Sergeant at Arms will proceed
10 to the Senate Chamber and bring any delegates back, any
11 delegates who are there.

12 For what purpose does Delegate Mentzer rise?

13 DELEGATE MENTZER: Point of information.

14 THE PRESIDENT: State the point.

15 DELEGATE MENTZER: I wonder if the President
16 can tell me whether this will be the third or fourth
17 time that we have voted on this particular substance.

18 THE PRESIDENT: It will be at least the third.
19 It may be the fourth. I am not sure.

20 The Clerk will please ring the quorum bell
21 again.

1 Delegate Adkins.

2 DELEGATE ADKINS: Mr. President, a parliamentary
3 question. Is it too early to move the previous question?

4 THE PRESIDENT: Yes, I think it is. I
5 think the sponsor of the motion has the floor and
6 until he yields the floor, I can't recognize anyone
7 else.

8 Is the Sergeant at Arms here? Will you please
9 report? Are all delegates present?

10 SERGEANT AT ARMS: Yes, sir.

11 THE PRESIDENT: The reconsideration of the vote
12 by which Amendment No. 2 was rejected has been moved and
13 seconded. The Chair recognizes Delegate Stern.

14 DELEGATE STERN: I yield to Delegate Adkins.

15 THE PRESIDENT: Delegate Stern, the Chair
16 cannot recognize you for that purpose. The Chair
17 recognizes you to speak to the motion.

18 DELEGATE STERN: I am ready to vote. I have
19 nothing to say.

20 THE PRESIDENT: You don't have to speak.

21 Delegate Churchill Murray.

1 DELEGATE CHURCHILL MURRAY: Mr. President and
2 ladies and gentlemen, I will make this as brief as I
3 can in deference to those who are tired of hearing.

4 THE PRESIDENT: I shall remind you that, in
5 any event, it shall not exceed three minutes.

6 DELEGATE CHURCHILL MURRAY: It shall not.

7 In any event, I was about to make very brief
8 remarks about it when someone moved the previous motion
9 this morning.

10 If I may, I will say this which I hope you
11 will take into consideration in your vote.

12 Do the people, and this concerns the people,
13 do the people not have the right to reserve unto themselves
14 the unique Maryland custom of being truly judged by their
15 peers, both as to the facts and the application of the
16 law? Antiquity alone is no good reason to retain a
17 custom, but custom which has been retained for nearly
18 four hundred years, and this means for twelve generations,
19 is not to be lightly cast aside.

20 Whence comes the power of the judges? Is
21 it not given to them by the people? This, I think, is

1 something that you should think about. Is it not given
2 to them by the people and do we, the people, not have the
3 right to reserve unto ourselves the right to be truly
4 judged by our peers? The meaning of the word "peers" is
5 simply one's equal.

6 This right of the people has seldom been
7 abused in the past in Maryland although Marylanders are
8 tolerant people when faced with the solemnity of the
9 Court and their sworn duty as jurors. You may trust them
10 to do justice as they see it. Even in 1598 and that is
11 the furthest back anyone has traced this, 1598, certain
12 offenses were --

13 THE PRESIDENT: You have one-half minute.

14 DELEGATE CHURCHILL MURRAY: -- were reserved
15 very differently from the time of the Magna Carta. No
16 need that we go that far back. This is the point I
17 want to make and ask you to consider: Laws adopted in
18 1867, 1917, 1937, they were viewed entirely differently
19 from the way they would be today and that is why I think
20 that the jury should still be permitted this right.
21

1 THE PRESIDENT: The Chair recognizes Delegate
2 Adkins to move the preceding question and the immediately
3 preceding question.

4 DELEGATE ADKINS: I so move both.

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: All those in favor, say Aye;
7 contrary, No.

8 The Ayes have it, and it is so ordered.

9 The question rises on motion to reconsider the
10 vote by which Amendment No. 2 was rejected. If it is
11 reconsidered, the Chair will submit without further debate
12 the question on Amendment No. 2.

13 The question now arises on the motion to recon-
14 sider the vote by which Amendment No. 2 was rejected.
15 A vote Aye is a vote in favor of reconsideration; a vote
16 No is a vote against.

17 Cast your vote.

18 Has every delegate voted?

19 Does any delegate desire to change his vote?

20 The Clerk will record the vote. There being sixty-two
21 votes in the affirmative and fifty-five in the negative,

1 the motion is carried and the motion to reconsider is
2 adopted.

3 The Clerk will ring the quorum bell.

4 The question now arises on the adoption of
5 Amendment No. 2.

6 For what purpose does Delegate Clagett rise?

7 DELEGATE CLAGETT: I rise on a point of personal
8 privilege.

9 THE PRESIDENT: State the privilege.

10 DELEGATE CLAGETT: Mr. Chairman, when this
11 question was first voted upon back some days ago, I voted
12 to delete from the Constitution the provision that the
13 jury shall be the judge of both the law and the fact.

14 THE PRESIDENT: Delegate Clagett, I do not
15 believe you are stating a question of personal privilege.
16 At least the Chair does not recognize it as such. There
17 is no further debate on this amendment.

18 DELEGATE CLAGETT: I yield to the Chair.

19 THE PRESIDENT: Thank you, sir.

20 The question arises on the adoption of Amendment
21 No. 2. A vote Aye is a vote in favor of the amendment;

1 a vote No is a vote against.

2 Cast your vote.

3 Has every delegate voted? Does any delegate
4 desire to change his vote?

5 The Clerk will record the vote.

6 There being sixty votes in the affirmative and
7 sixty in the negative, the motion is lost and the amendment
8 fails.

9 The Chair has no further amendments to Committee
10 Recommendation R&P-1 and R&P-2.

11 For what purpose does Delegate Schneider rise?

12 DELEGATE SCHNEIDER: I move reconsideration of
13 the vote by which Amendment 6 failed.

14 THE PRESIDENT: The Sergeant at Arms will
15 search the corridors and lounge and bring to the chamber
16 any delegates within the vicinity immediately.

17 The Chair suggests that if we reconsider all
18 votes previously taken because they are close, we will be
19 in session today, tomorrow, Sunday, and Monday. It is
20 imperative we finish everything on the agenda before the
21 new year.

1 The Clerk will ring the quorum bell, please.

2 The question arises on the motion to reconsider
3 the vote by which Amendment No. 6 was rejected. Is there
4 a second to the motion?

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: The motion is seconded.

7 The Chair recognizes Delegate Schneider to
8 speak to the motion.

9 DELEGATE SCHNEIDER: Mr. Chairman, I don't intend
10 to speak very long on it. I think it was a close vote.
11 It lost by one vote and I think we ought to take another
12 look at it. I don't intend to debate it in fact. I plan
13 to sit down. I hope that Delegate Adkins will be kind
14 enough to get up and move the previous question.

15 THE PRESIDENT: Delegate Adkins.

16 DELEGATE ADKINS: I was never more willing to
17 oblige. I move the previous question.

18 THE PRESIDENT: Delegate Adkins, the Chair
19 suggests if you desire to, you may move the previous
20 question on all previous questions which carries us back
21 to the question on the adoption of the Committee

1 Recommendation and it would forclose any other motions to
2 reconsider. I state that as fair warning to everybody
3 if you desire to make such a motion.

4 DELEGATE ADKINS: Parliamentary inquiry. You
5 mean in relation to this particular amendment or as to all
6 amendments heretofore adopted?

7 THE PRESIDENT: All amendments with respect to
8 Committee Recommendations R&P-1 and 2.

9 DELEGATE ADKINS: I am not prepared to commit
10 that major surgery, but I will move --

11 THE PRESIDENT: I should have said with the except-
12 ion of the recommendation which is a special order of
13 business.

14 DELEGATE ADKINS: I think I shall not be that
15 radical. I think I shall move the question on the amendment
16 now before you.

17 THE PRESIDENT: Very well.

18 Delegate Bennett.

19 DELEGATE BENNETT: Mr. Chairman, I move the
20 previous question on all motions to reconsider in connection
21 with --

1 THE PRESIDENT: I don't think you can put the
2 motion that way. You can move the previous question on all
3 amending questions, but we already have a motion to move
4 the previous question. I think we will save time by con-
5 sidering it.

6 DELEGATE BENNETT: Then I move the previous
7 question on all pending questions.

8 THE PRESIDENT: The motion to order the
9 previous question on all previous pending questions which
10 as I understand is Delegate Bennett's motion for
11 reconsideration of the vote by which Amendment 6 was
12 rejected, the question of further action on Amendment 6
13 and then the question of the adoption of Committee Recom-
14 mendation R&P-1 and R&P-2 except for the section that has
15 been separated and made the special order of business.

16 For what purpose does Delegate Morgan rise?

17 DELEGATE MORGAN: Mr. President, to make a
18 parliamentary inquiry.

19 THE PRESIDENT: State the inquiry.

20 DELEGATE MORGAN: Didn't Delegate Adkins make
21 a motion for moving the previous question?

1 THE PRESIDENT: He did, but the motion made by
2 Delegate Bennett was broader and has precedence.

3 Is Delegate Bennett's motion seconded?

4 (Whereupon, the motion was seconded.)

5 THE PRESIDENT: The motion is seconded; so there
6 will be no misunderstanding, if the motion is carried, we
7 will proceed without further debate to a vote on the motion
8 to reconsider the vote by which Amendment No. 6 was
9 rejected. If that motion was carried we would proceed
10 without further debate to consider the adoption of
11 Amendment 6.

12 Following action on that, we would consider
13 without further debate the adoption of Committee Recommenda-
14 tion R&P-1 and 2 as amended except for Section 1.17 which
15 is a special order of business.

16 For what purpose does Delegate White rise?

17 DELEGATE WHITE: Mr. Chairman, we ask you to
18 keep cool as we decide.

19 THE PRESIDENT: Delegate Dukes, for what purpose
20 do you rise?

21 DELEGATE DUKES: Parliamentary inquiry.

1 THE PRESIDENT: State the inquiry.

2 DELEGATE DUKES: When would it be appropriate
3 to move to make another matter a special order of business
4 on Tuesday?

5 THE PRESIDENT: I can't tell you unless I know
6 what the other matter is.

7 DELEGATE DUKES: The other matter is the sixty-
8 sixty vote we had on Amendment 2.

9 THE PRESIDENT: If this motion carries, that
10 motion, I take it, would be out of order. This motion
11 takes precedence. You can announce your intention and that
12 is all.

13 For what purpose does Delegate Johnson rise?

14 DELEGATE JOHNSON: Parliamentary inquiry.

15 THE PRESIDENT: State the inquiry.

16 DELEGATE JOHNSON: Would you be kind enough to
17 recite for us Amendment 6, the amendment that we are about
18 to vote on with respect to reconsideration. It has been
19 amended. Would I be correct in assuming that the motion
20 that is before us is the amendment as amended or as the
21 amendments have been accepted to it originally and not

1 when it was originally reconsidered.

2 THE PRESIDENT: Amendment 6 which is the
3 subject of reconsideration is in the printed form except
4 for the fact that in line 7 after the word "records", the
5 words "as defined by law" were inserted.

6 For what purpose does Delegate Della rise?

7 DELEGATE DELLA: Mr. President, I believe we
8 are in Convention?

9 THE PRESIDENT: That is correct.

10 DELEGATE DELLA: And under Rule 54 no question
11 may be reconsidered more than once except if the reconsidera-
12 tion is moved by direction of the Committee on Style,
13 Drafting and Arrangement, or by the Convention Committee
14 which reported on the matter to be reconsidered or if moved
15 after submission of a petition signed by fifteen delegates
16 to the Convention; I think this reconsideration is not by
17 fifteen members.

18 THE PRESIDENT: Delegate Della, as the Chair
19 announced earlier, I don't remember whether it was today or
20 yesterday in response to a query from Delegate Johnson, as
21 the Chair interprets Rule 54 it is applicable as stated in

1 Paragraph A of the Rule to a reconsideration of any question
2 finally adopted or rejected by the Convention and is not
3 applicable to reconsideration of action on amendments or
4 secondary questions. It would be applicable, for instance,
5 on a motion to reconsider the vote by which a Committee
6 Recommendation was finally adopted or rejected on second
7 reading. It is not applicable to the preliminary
8 considerations of amendments and that is the practice that
9 we have been following.

10 For what purpose does Delegate Mentzer rise?

11 DELEGATE MENTZER: Point of parliamentary
12 inquiry.

13 THE PRESIDENT: State the inquiry.

14 DELEGATE MENTZER: Has the Convention acted on
15 Section 1.12, imprisonment for debt?

16 THE PRESIDENT: If you mean by action, has it
17 considered amendments? Yes.

18 If you mean by action has it finally adopted
19 it, it has not, because that would come on the vote for
20 the adoption of the Committee Recommendation. I am not
21 sure which you meant. We have considered amendments.

1 DELEGATE MENTZER: I thought we were to have
2 it printed before us before we took some final action on
3 that particular section. Am I wrong?

4 THE PRESIDENT: I think it has been distributed.
5 Amendment 9, which was the amendment marked AA,
6 has been distributed.

7 For what purpose does Delegate Dukes rise?

8 DELEGATE DUKES: If appropriate, Mr. President,
9 to move that to lay the previous motion and all previous
10 questions on the table.

11 THE PRESIDENT: Delegate Dukes, your motion
12 would be in order. If it is adopted, it would lay on the
13 table completely all action with respect to Committee
14 Recommendation S&D-9. Is that your intention?

15 DELEGATE DUKES: Is it the Chair's ruling it
16 cannot be made with respect to a specific motion on the
17 floor at this time?

18 THE PRESIDENT: It cannot be made with respect
19 to the motion to move the previous motion alone. That is
20 true. It would carry with it all the questions covered.

21 DELEGATE DUKES: If the Chair so rules, I would

1 appeal that ruling of the Chair.

2 THE PRESIDENT: Well, you would have to indicate
3 to what you intend the motion to apply.

4 DELEGATE DUKES: I intend the motion to apply only
5 to Delegate Bennett's motion which would move all previous
6 questions. I wish to lay that motion on the table. Your
7 ruling is that I cannot do that, that I can only lay the
8 entire matter before us on the table --

9 THE PRESIDENT: No, that is not my ruling.
10 No, my ruling is that you can make the ruling, but that the
11 effect of the motion is to lay on the table everything
12 embraced in the motion for the previous question which
13 includes the entire Committee Recommendation.

14 DELEGATE DUKES: That is the ruling which I wish
15 to appeal, Mr. President.

16 THE PRESIDENT: For what purpose does Delegate
17 Bennett rise?

18 DELEGATE BENNETT: A point of parliamentary
19 inquiry. Is a motion to suspend the rules in order when
20 a previous question has been ordered?

21 THE PRESIDENT: You mean Delegate Dukes's

1 motion?

2 DELEGATE BENNETT: Yes.

3 THE PRESIDENT: His motion is a motion to lay
4 on the table.

5 Very well, the Clerk will ring the quorum bell.

6 May I suggest that we are wasting much valuable
7 time on debate on a matter of parliamentary inquiry that
8 gets us nowhere?

9 For what purpose does Delegate Smith rise?

10 DELEGATE MARVIN SMITH: To be bold enough to
11 suggest to these brethren that if they would withdraw a
12 couple of those motions that we might be able to get on.

13 (Applause)

14 THE PRESIDENT: Delegate Bennett.

15 DELEGATE BENNETT: Mr. Chairman, I would be
16 willing to withdraw my motion if I knew what other persons
17 with pending motions to reconsider would --

18 THE PRESIDENT: I think we are wasting time.

19 The ruling of the Chair has been appealed. The
20 Chair will submit it.

21 Before submitting it, the Chair desires to read

1 this sentence from Robert's Rules of Order, "No motion that
2 has another motion adhering to it can be laid on the table
3 by itself. If laid on the table, it carries with it
4 everything that adheres to it". That is the basis of the
5 Chair's ruling.

6 DELEGATE DUKES: Do I understand the Chair is
7 debating the appeal?

8 THE PRESIDENT: The Chair always has the oppor-
9 tunity to state the basis for its ruling and this is what
10 the Chair has done.

11 The question arises on the appeal from the ruling
12 of the Chair. A vote Aye will sustain the ruling of the
13 Chair; a vote No will be against the ruling of the Chair.
14 It will reverse the ruling of the Chair.

15 Are you ready for the question? This can be
16 put to you either way. I am putting it this way in the
17 hope that it will be simpler. A vote Aye sustains the
18 ruling of the Chair; a vote No reverses the ruling of the
19 Chair.

20 Cast your vote.

21 Has every delegate voted? Does any delegate

1 desire to change his vote?

2 The Clerk will record the vote.

3 The question arises on the motion to order the
4 previous question on all pending questions. So that there
5 will be no misunderstanding, if this motion is carried,
6 there can be no further debate --

7 For what purpose does Delegate Marion rise?

8 DELEGATE MARION: Mr. President, as I understand
9 what you are explaining, it is Delegate Bennett's motion.
10 I am wondering what happened after the Chair's ruling
11 was appealed as to Delegate Dukes's motion.

12 THE PRESIDENT: The Chair failed to announce
13 the results of the vote.

14 DELEGATE DUKES: I will withdraw it.

15 THE PRESIDENT: The motion has been acted upon.
16 The appeal from the Chair has been acted upon.

17 The result of the last vote was ninety-four in
18 the affirmative and ten in the negative. The ruling of
19 the Chair was sustained. The Chair was in error in stating
20 what the question was.

21 The question now rises on the motion of Delegate

1 Dukes to table the motion of Delegate Bennett.

2 DELEGATE DUKES: Mr. President, I do not wish
3 the motion in its present form. I will withdraw it.

4 THE PRESIDENT: Thank you.

5 The motion of Delegate Dukes to table is with-
6 drawn.

7 The question now arises on the motion of Delegate
8 Bennett to order the previous question on all pending
9 questions.

10 The effect: If it is carried, the Chair would
11 submit without further debate the motion to reconsider
12 Amendment No. 6.

13 If the motion to reconsider was adopted, the
14 Chair would submit without further debate Amendment No. 6.
15 If the motion was rejected, or if the motion to reconsider
16 were rejected and if adopted and then action taken on
17 Amendment No. 6, the Chair would submit without further
18 debate the question on the adoption of Committee Recommenda-
19 tion R&P-1 and R&P-2 as amended excluding Section 1.17

20 For what purpose does Delegate Clagett rise?

21 DELEGATE CLAGETT: A point of parliamentary

1 inquiry.

2 THE PRESIDENT: State the inquiry.

3 DELEGATE CLAGETT: If the vote is against
4 Delegate Bennett's amendment or motion, then would we be
5 able to vote on Delegate Adkins's motion?

6 THE PRESIDENT: You would.

7 Are you ready for the question?

8 (There were cries of question.)

9 THE PRESIDENT: A vote Aye is a vote in favor of
10 Delegate Bennett's motion; a vote No is a vote against.

11 Cast your vote.

12 Has every delegate voted? Does any delegate
13 desire to change his vote?

14 The Clerk will record the vote.

15 There being twenty-two votes in the affirmative
16 and ninety-five in the negative, the motion fails.

17 The question now arises on the motion of
18 Delegate Adkins to order the previous question on the motion
19 to reconsider the vote by which Amendment No. 6 was
20 rejected.

21 A vote Aye is a vote to reconsider. This is

1 not the vote on the amendment itself. A vote Aye is a
2 vote to reconsider; a vote No is a vote against.

3 For what purpose does Delegate Smith rise?

4 DELEGATE MARVIN SMITH: Parliamentary inquiry.

5 THE PRESIDENT: State the inquiry.

6 DELEGATE MARVIN SMITH: Have we yet voted --

7 THE PRESIDENT: I am sorry, I am moving too fast
8 for myself. You are quite right. The question arises on
9 the motion to order the previous question. A vote Aye
10 orders the previous question; a vote No does not.

11 All in favor, signify by saying Aye; contrary,
12 no.

13 The Ayes have it, and it is so ordered.

14 I am apparently too anxious to get on with the
15 business for my own good and yours too.

16 The question now arises on the motion to
17 reconsider the vote by which Amendment No. 6 was rejected.
18 A vote Aye is a vote in favor of reconsideration; a vote
19 No is a vote against.

20 Cast your vote.

21 Has every delegate voted? Does any delegate

1 desire to change his vote?

2 The Clerk will record the vote. There being
3 forty-eight votes in the affirmative and seventy in the
4 negative, the motion fails.

5 The question now arises on the adoption of
6 Committee Recommendation R&P-1 and R&P-2 as amended with
7 the exception of Section 1.17 which has been made a
8 special order of business.

9 The Chair was asked at the rostrum whether a
10 vote on this motion or on this question would in any way
11 affect the status of the vote on Section 1.17 when it is
12 considered separately as to whether seventy-two votes
13 would be required for its passage.

14 The Chair has answered Delegate Bothe that
15 approval of the Committee Recommendation with the exception
16 of Section 1.17 does not in the opinion of the Chair
17 affect the status of the voting with respect to Section
18 1.17, that whatever action is taken next Tuesday with
19 respect to Section 1.17 may be taken by a majority of those
20 present and voting.

21 I state that so that there will be no misunder-

1 standing on next Tuesday when the matter is under consid-
2 eration.

3 For what purpose does Delegate Dukes rise?

4 DELEGATE DUKES: Mr. President, I wish to move
5 reconsideration of the vote on Amendment 2 and that
6 the reconsideration and the vote if it becomes appropriate
7 be set immediately following the special order of business
8 set for 2 o'clock on Tuesday.

9 THE PRESIDENT: The Chair would rule the motion
10 out of order for the following reasons.

11 As previously indicated, the Chair has interpreted
12 Rule 54 as being applicable only to a question finally
13 adopted or rejected and as not being applicable to motions
14 of the character we have been having on secondary amendments.

15 This would mean if the Chair is correct in this
16 interpretation, that the Rule 54 which is the rule which
17 permits reconsideration more than once that there is no
18 rule of the Convention applicable particularly to a recon-
19 sideration other than the situation covered in Rule 54.

20 In that situation, Robert's Rules of Order are applicable;
21 under Robert's Rules of Order, there may not be more than

1 one reconsideration.

2 The Amendment 2 has already been considered
3 and therefore a secondary consideration would not be
4 in order.

5 Do you desire to appeal the ruling of the Chair,
6 Delegate Dukes?

7 DELEGATE DUKES: No, I move to suspend the
8 rules for the sole purpose of moving the motion which I
9 just made.

10 THE PRESIDENT: Very well.

11 For what purpose does Delegate Case rise?

12 DELEGATE CASE: Point of parliamentary inquiry.

13 THE PRESIDENT: State the inquiry.

14 DELEGATE CASE: Does the ruling that the Chair
15 made apply with equal force to Amendment No. 5 which along
16 with its various counterparts is made a special order of
17 business on Tuesday?

18 THE PRESIDENT: The situation would be the same
19 except for the very fact that Section 1.17 has now been
20 divided from the rest of the article and, therefore, any
21 further consideration of Section 1.17 necessarily is a

1 final vote. Rule 54 would be applicable. The Robert's
2 rule just referred to by the Chair would not be.

3 Delegate Della.

4 DELEGATE DELLA: Mr. President, I don't understand
5 that rule. 1.17, I think, is made a special order of
6 business for Tuesday.

7 THE PRESIDENT: And it is standing alone. There
8 is nothing else with it. So whatever action you take on
9 it is the final action on that section.

10 DELEGATE DELLA: There have been several
11 reconsiderations of Section 1.17, so Rule 54 --

12 THE PRESIDENT: Not reconsideration of the vote.
13 There has been one, not several. Amendment 5 has been
14 reconsidered once, but not twice.

15 DELEGATE DELLA: 1.17.

16 THE PRESIDENT: Certainly that is true as to
17 Amendment 5 and I don't believe there is any other amendment
18 with respect to Section 1.17 that was reconsidered more
19 than once.

20 Delegate Dukes has moved that the rules be
21 suspended so that he may move a reconsideration of the

1 amendment, of the vote by which reconsideration of the
2 Amendment 2 was rejected and make the reconsideration the
3 special order of business for --

4 Delegate Dukes, did you fix a time for the
5 special order, or did you leave it to the Committee on
6 Calendar and Agenda?

7 DELEGATE DUKES: I asked that it be set immed-
8 iately after the other matter set for special consideration.

9 THE PRESIDENT: Next Tuesday. Very well.
10 Is there a second to Delegate Dukes's motion?
11 If I don't ask for it, I will forget it.

12 DELEGATE KIRKLAND: I second it.

13 THE PRESIDENT: Delegate White, for what purpose
14 do you rise?

15 DELEGATE WHITE: Mr. President, is the motion to
16 suspend the rules debatable?

17 THE PRESIDENT: The motion to suspend the rules
18 is not debatable, Delegate White.

19 DELEGATE WHITE: I wonder if I could have about
20 thirty seconds on the basis of personal privilege.

21 THE PRESIDENT: Delegate White, it would be

1 easier to accede for thirty seconds than to debate it
2 with you if you really mean thirty seconds.

3 DELEGATE WHITE: I possibly was just a little
4 unkind in my last remarks, but I would like to personally
5 pay a personal tribute to the manner in which you have
6 conducted this Convention in an effort to be fair and you
7 have been very patient and Mr. President, I suggest that
8 we have become bogged down in a lot of technicalities
9 moving in the direction where hope eternal springs from the
10 human breast and no matter how many times certain resolu-
11 tions have been beaten down or proposals, we bring them
12 back again and again and again and I certainly hope,
13 and I am certainly willing to discipline myself that if we
14 could get down to business and refrain from dealing in
15 this technicalities, it might be good for this Convention.
16 Thank you, Mr. President.

17 THE PRESIDENT: The question arises on the motion
18 to suspend the rules so as to permit Delegate Dukes to make
19 a motion to reconsider the vote by which Amendment No. 2
20 failed of reconsideration and to make the matter a special
21 order of business immediately following the other special

1 order of business.

2 Will the Clerk please ring the quorum bell?

3 A vote Aye is a vote in favor of suspending the
4 rules; a vote No is a vote against.

5 Cast your votes.

6 Has every delegate voted? Does any delegate
7 desire to change his vote?

8 The Clerk will record the vote.

9 There being thirty-eight votes in the affirmative
10 and seventy-two in the negative, the motion to suspend the
11 rules fails.

12 The question arises on the adoption of
13 Committee Recommendation R&P-1 and R&P-2 as amended with
14 the exception of Section 1.17 which is made a special
15 order of business for next Tuesday.

16 A vote Aye is a vote in favor of the adoption
17 of the Committee Recommendation as amended with the
18 exception noted; a vote No is a vote against.

19 Cast your votes.

20 Has every delegate voted? Does any delegate
21 desire to change his vote?

1 The Clerk will record the vote.

2 Just a second. For what purpose does Delegate
3 Hodge Smith rise?

4 DELEGATE J. HODGE SMITH: Someone sabotaged
5 my button. I want to vote Aye.

6 THE PRESIDENT: You may be so recorded.

7 Delegate Marvin Smith, for what purpose do you
8 rise?

9 DELEGATE MARVIN SMITH: A similar purpose.
10 I too desire to be recorded as Aye.

11 THE PRESIDENT: Will the Clerk advise the Chair
12 as to the vote?

13 There being 103 votes in the affirmative and
14 twelve in the negative, the motion is adopted. Committee
15 Recommendation R&P-1 and R&P-2 as amended is adopted on
16 second reading with the exception of Section 1.17.

17 THE PRESIDENT: Delegate Kiefer.

18 DELEGATE KIEFER: May I rise to a point of
19 personal privilege?

20 THE PRESIDENT: You may do so if you can state
21 it briefly.

1 DELEGATE KIEFER: Very briefly. My good wife
2 has sat through all of this and she sat through a lot of
3 the stuff we sat through the last time I was on the firing
4 line. She now knows what cruel and unusual punishment is.
5 She no longer asks me a question. She says will Delegate
6 Kiefer yield to a question.

7 THE PRESIDENT: On a pleasanter note, I am very
8 happy to tell you that the long-awaited commissions of
9 delegates which have been complete for some time are now
10 also signed, executed, and framed and ready for delivery
11 tomorrow. They will be available for you. I think we
12 will arrange to bring them into the chamber to you so that
13 you will have them all.

14 Delegate Mitchell.

15 DELEGATE MITCHELL: Mr. President and Fellow
16 Delegates, I don't remember that we have thanked our Chair-
17 man, Mr. Kiefer, and our research assistants, our profes-
18 sional staff members, Mr. Dave Marlin, and Mr. Atlee W.
19 Wampler, and Mr. Ed Smith, for their invaluable assistance
20 in this highly debatable section of our Constitution. I
21 would like the Convention to give all of them, the Chairman

1 and the research assistants our warmest thanks.

2 THE PRESIDENT: Thank you, Delegate Mitchell.

3 (Applause)

4 THE PRESIDENT: The next item for consideration
5 on the agenda is the report No. S&D-15 of the Committee on
6 Style, Drafting and Arrangement with respect to Committee
7 Recommendation JB-2. The Chair requests that Delegate
8 Penniman come forward and that Delegate Mudd and his staff
9 advisors take the usual seat for the Committee Chairman.

10 The Convention will please come to order.
11 There has been passed up to the Chair a motion under Rule
12 54-B to reconsider Amendment 2 to the amended report S&D-9,
13 that is not exactly correct, it is Amendment 2 to Committee
14 Recommendation R&P-1 and R&P-2.

15 The Chair recognizes Delegate Stern to put the
16 motion.

17 DELEGATE STERN: I so move, Mr. President, for
18 the reconsideration --

19 THE PRESIDENT: It is moved that Amendment No. 2
20 to Committee Recommendation R&P-1 and R&P-2, that the vote
21 by which the reconsideration be rejected be reconsidered.

1 The motion is supported by the signatures of
2 fifteen delegates. Under Rule 54, it lays over until the
3 second session today, and the Chair refers the motion to
4 the Committee on Calendar.

5 Delegate Della.

6 DELEGATE DELLA: I don't know whether I am in
7 order or not to make it a special order of business for
8 Tuesday according to the Chairman of the Committee on
9 Calendar.

10 THE PRESIDENT: I don't think that is necessary.
11 The Chair will see that it is on the calendar for considera-
12 tion immediately after the special order now set for
13 Tuesday.

14 Delegate Stern, the motion you submitted is not
15 in proper form. The Chair in re-stating it also failed to
16 state it in proper form. I take it that you and your
17 supporting delegates desire to move to reconsider the
18 vote by which Committee Recommendation R&P-1 and 2 as
19 amended was adopted for the purpose of reconsidering the
20 vote by which reconsideration of Amendment 2 was rejected.

21 Is that your motion?

1 DELEGATE STERN: That is my motion, sir.

2 THE PRESIDENT: Very well.

3 The Chair should indicate that it has consider-
4 able doubt as to whether or not the second part of the
5 motion is in order. Rather than debate the matter further,
6 we will proceed as previously indicated, but the Chair
7 does not want this to be taken as a precedent for future
8 action. There is no doubt about your right to move a
9 reconsideration of the vote by which the recommendation
10 was approved. There is a doubt as to your next step and
11 I don't want to have further lost time debating it. I
12 don't want it to be a precedent.

13 In view of the pending motion, the Chair will
14 not at this time formally refer Committee Recommendation
15 R&P-1 and R&P-2 to the Committee on Style, but I will ask
16 the Committee nevertheless to consider it as though it had
17 been referred.

18 We now have for consideration Committee on
19 Style Report S&D-15.

20 The Chair recognizes Delegate Penniman.

21 DELEGATE PENNIMAN: Mr. President, I can hardly

1 think of an opportunity like this to appear before a group
2 so relaxed, so rested, with so few tensions as we find now.
3 Fortunately, my report is brief. We put in the word "the",
4 we put four capital letters into lower case, and we removed
5 the unnecessary words "of the State Government". (Applause)

6 THE PRESIDENT: Are there any questions?

7 Are there any amendments with respect to the
8 amendment submitted by the Committee on Style?

9 The question arises on the adoption of the amend-
10 ments recommended by the Committee on Style with respect to
11 Committee Recommendation JB-2.

12 Are you ready for the question? The Clerk will
13 ring the quorum bell.

14 The question arises on the approval of the
15 amendments recommended by the Committee on Style with
16 respect to Committee Recommendation JB-2.

17 A vote Aye is a vote in favor of the amendments;
18 a vote No is a vote against.

19 Cast your vote.

20 Has every delegate voted? Does any delegate
21 desire to change his vote?

1 The Clerk will record the vote.

2 There being ninety-four votes in the affirmative
3 and one in the negative, the amendments by the Committee
4 on Style are adopted.

5 Are there any other amendments to Section 5.33
6 of JB-2?

7 The Chair hears none.

8 The question arises on the approval on second
9 reading of Committee Recommendation JB-2 as amended.

10 Are you ready for the question? The Clerk will
11 ring the quorum bell.

12 The question arises on the adoption on second
13 reading of Committee Recommendation JB-2 as amended.

14 A vote Aye is a vote in favor of the Committee
15 Recommendation; a vote No is a vote against.

16 Cast your vote.

17 Has every delegate voted? Does any delegate
18 desire to change his vote?

19 The Clerk will record the vote.

20 There being ninety-nine votes in the affirmative
21 and one in the negative, the motion is carried and Committee

1 Recommendation JB-2 as amended is adopted on second reading
2 and is referred to the Committee on Style, Drafting and
3 Arrangement.

4 The next item on the agenda is a consideration
5 of the report of the Committee on Style, Drafting and
6 Arrangement, No. S&D-13 with respect to Committee Recommen-
7 dations EB-1 and EB-2.

8 The Chair recognizes Delegate Penniman and
9 requests that the Chairman of the Committee and the staff
10 advisors take the usual chairs.

11 DELEGATE PENNIMAN: This is No. 13. It is the
12 one on the Executive Branch.

13 THE PRESIDENT: S&D-13 covers Committee Recommen-
14 dation EB-1 and EB-2.

15 DELEGATE PENNIMAN: Mr. President, I am happy
16 to note that on the preceding vote on the Committee on
17 Style that we lost only one vote from our own Committee;
18 otherwise, it went through unanimously.

19 Turning to the Executive Branch, again you will
20 note that there are relatively few changes and the changes
21 in general are changes in chronology in the manner in which

1 we have done it for previous articles.

2 If we turn to 4.01, there are no changes except
3 to remove the "and he" and change it to "who".

4 We removed in 4.02 the words that we removed
5 from previous articles "to be eligible for" and start out
6 with what indeed are the facts of the case rather than the
7 preliminary.

8 In 4.03, page 2, line 5, I would like the
9 indulgence of the Convention to make the "S" in the section
10 a capital letter which we inadvertently failed to do. That
11 is line 5 of page 2.

12 THE PRESIDENT: Is there any objection to
13 considering the recommendation of the Committee modified
14 to make the first letter of the word "section" in line 5
15 on page 2 a capital letter?

16 The Chair hears none, and the recommendation
17 will be considered as so modified.

18 Delegate Penniman.

19 DELEGATE PENNIMAN: For those of you who happen
20 to have a report of the Committee of the Whole, the old
21 section 4.04 which dealt with salaries has now been placed

1 near the back in 4.23 after the other discussions of each
2 of the elective offices.

3 Again, in the present 4.04 we have removed the
4 necessary words to be eligible, and so on. In line 16
5 we added the word "thereafter" to indicate that it is only
6 after a person has been elected that he shall not be
7 eligible for the position of Lieutenant Governor.

8 In 4.05 we have changed the wording merely to
9 get it in chronological order.

10 In 4.06 we dropped "following the election but
11 prior to taking office" because it had seemed to the
12 Committee that the words " Governor Elect" already made it
13 clear that he was not in office, that he had been elected,
14 but was not in office.

15 There are some minor changes in the order of
16 words in 4.07 where we are seeking to make it clear in a
17 rather complex article that is here when we are referring
18 to the Governor and when we are referring to the Lieutenant
19 Governor which has caused us to make some shift in the order,
20 and to occasionally put in the words "The Governor" rather
21 than trust to the pronoun.

1 In Section 4.08, in line 20, beginning with the
2 "if" which has been crossed out and running down through
3 line 23, "vacant", all of which have been crossed out, this
4 was done inadvertently. Those lines need to be returned.

5 Otherwise, we leave it with the odd decision
6 of the Court of Appeals that they can't perform the duty
7 but they have not declared the office vacant. This is
8 obviously not the intention of the Committee on Style to
9 make any such change and I would ask that those stricken
10 words be returned.

11 THE PRESIDENT: State that again, please,
12 Delegate Penniman.

13 DELEGATE PENNIMAN: Lines 20 to 23, beginning
14 with "if the Court of Appeals" and ending with the words
15 in line 23, "shall be vacant", were inadvertently taken out
16 of the report as it came from the Committee of the Whole.
17 They are necessary to make clear that not only does the
18 Court of Appeals decide that the man cannot carry out the
19 duties of his office, but also that the office is therefore
20 vacant.

21 THE PRESIDENT: Is there any objection to

1 considering the typographical error corrected so as not
2 to delete the sentence beginning in line 20 and continuing
3 in lines 21, 22, and 23 on page 4?

4 The Chair hears none. That sentence will not
5 be deleted.

6 Delegate Penniman.

7 DELEGATE PENNIMAN: In Section 4.09, we come to
8 the problem of the reference to the presiding officer of
9 the Senate as it came to us from the Legislative Branch
10 article, the presiding officer of the Senate was referred
11 to in precisely those words, in LB-3.13. It refers to
12 the presiding officer of the House and the presiding
13 officer of the Senate. We therefore felt that it was
14 inappropriate to have the presiding officer of the Senate
15 referred to as the president of the Senate in an article
16 coming from the Executive Branch, so we removed it and
17 changed it back to the phrase that was in the Legislative
18 Branch article which referred to him as the presiding
19 officer of the Senate. That, then, is true in both 4.09
20 and in 4.10, and I believe also in 4.11.

21 In 4.11, we have made a change on page 6 in line

1 2, where it speaks of the removal from office, we have
2 changed it to "the creation of a vacancy" since in this
3 instance, it is the retirement for disability and therefore
4 we would not want to place a man under a stigma of referring
5 to it as a removal, but rather his retirement or the
6 creation of a vacancy; this would be in line with the same
7 kinds of changes which we made in Article 5.

8 In Article 12, line 13, an error again on our
9 part. I would like to change line 13 to read, "The
10 Governor from time to time shall inform". I would simply
11 like to pull "shall" on the other side of the second "time"
12 so as not to split the verb.

13 THE PRESIDENT: Is there any objection to
14 considering the Committee's amendment modified so on page 6,
15 line 13, the line "shall" after the word "Governor" is
16 moved to after the words "time to time"?

17 The Chair hears none, so the change will be
18 considered as made.

19 Delegate Penniman.

20 DELEGATE PENNIMAN: There is some slight change
21 in lines 14 and 15 as to the order of words.

1 In 4.16, which had been 4.17, there is some
2 revision which seeks to put again in chronological order
3 how one handles the return of vetoed bills.

4 In 4.17 there is a slight change in the order
5 in which the words appear, no change in the words, but in
6 line 33, we have left in the word "such" and we would not
7 only do so in the Committee on Style, I would like to change
8 it to "those" and I would like in line 32 to put in an
9 "or" before "The Governor" and change the "and" to "or any
10 other officer".

11 THE PRESIDENT: Will you give them again?

12 DELEGATE PENNIMAN: In line 33, I would like to
13 change the "such" to "those other powers", and in line 32
14 to change or insert an "or" after "officer,", and then to
15 change the "and" which follows "Governor," to "or".

16 THE PRESIDENT: Is there any objection to
17 considering the recommendations of the Committee modified
18 so that in line 33 on page 7 the word "such" is changed to
19 "those" and in the blank space in 42 after the word "officer"
20 the word "or" is inserted, and in the same line the word
21 "and" is changed to the word "or"?

1 The Chair hears no objection, so the modifica-
2 tions will be considered as having been made.

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1 DELEGATE PENNIMAN: I received a note which says:
2 "I can't wait for an explanation of the style change in
3 Section 4.18." It comes from Mr. Johnson. The reason it
4 comes from Mr. Johnson the Committee on Style had inserted in
5 line 4 "for at least five years" which are precisely the
6 words I argued Delegate Johnson down on last night when he
7 sought to insert them into Article 5. I should like the
8 intelligence of the convention to remove the words "for at
9 least five years" in lines 4 and 5 which would then also cause
10 the removal of the word "shall" in line 6.

11 THE PRESIDENT: Is there any objection to consider-
12 ing the recommendations of the committee modified so that
13 on page 8 in lines 4 and 5 the words "for at least five
14 years" will be deleted, and what was the second change?

15 DELEGATE PENNIMAN: We then need to then remove the
16 word "shall", the first word in line 6.

17 THE PRESIDENT: And remove the word "shall" from
18 line 6.

19 The Chair hears no objection. The amendments
20 will be considered as having been so modified.

21 DELEGATE PENNIMAN: Lines 34, 35, and 36, under

1 Section 4.20 had originally been in 4.23 and had been moved
2 up.

3 In Section 4.21 we removed again the unnecessary
4 words that were in line 41. It does occur to our committee
5 that we speak in line 46 of preceding his election, but I
6 would presume that the same qualifications would be
7 necessary for someone appointed to that office. We did not
8 add the words "preceding his election" or "appointment" so I
9 would presume those might be added to keep it in line with
10 other items.

11 I think in --

12 THE PRESIDENT: I am not sure I followed you.
13 Were you suggesting that you add "appointment" or were you
14 saying you thought it was unnecessary.

15 DELEGATE PENNIMAN: No, I think it is probably
16 necessary but I am not sure that it is the function of our
17 committee to add it.

18 THE PRESIDENT: Very well, we will flag it.

19 DELEGATE PENNIMAN: I think there is no change in
20 the election of the Comptroller except again to put it in --
21 some slight change to put it in chronological order. We had

1 taken what had been 4.04 and moved it into 4.23 so we would
2 get all the salaries together.

3 4.24 is simply a slight reorganization of what had
4 been the first sentence.

5 In 4.25 we removed the words "executive" and
6 "administrative" in line 47 since we were speaking only of
7 those functions, powers and duties of the offices, agencies,
8 and instrumentalities which are in the Executive Branch, and
9 it seemed to us it was therefore not necessary to use those
10 particular words.

11 What had been in 4.25 or which had followed 4.25 in
12 the transitory provisions are not in here, but will be in
13 the section dealing with transitory provisions.

14 In 4.25 on line 19, we removed the words "depart-
15 ment, offices, agencies and instrumentalities of the
16 Executive Branch" so that they would not be in this section
17 confused with the principal departments which are also
18 referred to in this same section.

19 In 4.27 or page 11, we added the words in line
20 2 "or by the process of executive reorganization" because
21 in Section 26 it states that the Governor may make changes

1 in the organization of the Executive Branch including the
2 establishment or abolition of principal departments, and we
3 will presume that if he could create a principal department,
4 he could also determine what the nature of the leadership
5 of that principal department would be, whether it is by a
6 head, one person or by a multi-people head.

7 The next one I think we have changed only in the
8 order down toward the end of the section.

9 Again, on page 12, we refer to the process of
10 executive reorganization because again it is a matter which
11 has been covered in the same way which I have already
12 referred to in 4.26.

13 I think the other changes are self-explanatory.

14 And in 4.30 and in 4.31 we inserted -- and on
15 page 13 in line 12 "for instrumentalities" simply to keep
16 in line with usage elsewhere in the article.

17 The other changes in 4.33 and 4.34 are again
18 self-explanatory.

19 THE PRESIDENT: Are there any questions of the
20 chairman of the committee?

21 Delegate Grant?

1 DELEGATE GRANT: On the section in which you deal
2 on page 5, where you substituted "the presiding officer"
3 in lieu of "the president of the Senate", you may possibly
4 have a substantive change there because there may be a
5 situation in which the presiding officer of the Senate is
6 not the president of the Senate.

7 THE PRESIDENT: Delegate Penniman.

8 DELEGATE PENNIMAN: That is possible. I think
9 that we did not. One gets into a very difficult problem
10 here, Delegate Grant. We were aware of the problem. When I
11 mentioned it to the President, he also raised the same
12 question. I suppose that it is a possibility. We were
13 faced by a situation in which the legislative committee
14 which we thought probably had power in dealing with the
15 nature of the Legislative Branch had been careful to not
16 name the head or the presiding officer in either of the
17 houses because they wanted to leave the Legislative Branch
18 free, and so it seemed to us undesirable to have it pop up
19 some place else and although I admit that there might be
20 some circumstances in which it might be possible that at
21 least a temporary presiding officer might not indeed be the

1 president or his equivalent.

2 THE PRESIDENT: Delegate Grant.

3 DELEGATE GRANT: In this we are dealing with
4 what obviously would be an emergency situation, where we
5 don't have either a governor or lieutenant governor, and I
6 point out to you that there may well be a situation in which
7 there may well be no president of the Senate and you would
8 have a presiding officer.

9 I wondered if you wanted to make a more definite
10 indication of a specific person rather than a person who
11 just happened to be filling a particular office at that
12 particular moment.

13 DELEGATE PENNIMAN: I really do not know what the
14 answer is in this situation. Perhaps the substantive
15 committee has a bit of wisdom which is beyond mine. I
16 really am trying to call it to the attention of the Con-
17 vention.

18 THE PRESIDENT: Delegate Grant.

19 DELEGATE GRANT: I had a second question on page
20 12.

21 THE PRESIDENT: Delegate Penniman.

1 DELEGATE PENNIMAN: I hope I can be more precise
2 in my answer on that one.

3 DELEGATE GRANT: In Section 4.30 I presume you
4 intended that to mean in the conjunctive and not in the
5 alternative on line 16?

6 THE PRESIDENT: You mean in line 18 it should be
7 appointment and removal.

8 DELEGATE GRANT: You seem to authorize that a
9 person whose method of appointment, and do you mean to say
10 "persons whose method of removal" or do you mean the person
11 who is obtaining the appointment is the same one of whom you
12 are contemplating the removal?

13 THE PRESIDENT: Delegate Penniman.

14 DELEGATE PENNIMAN: Those are not our words. They
15 are the words of the original committee.

16
17 THE PRESIDENT: Delegate Grant asks a question
18 with respect to Section 4.30 which I think may more properly
19 be addressed to you. He calls attention to the fact that
20 the disjunctive is used in the first three words of line 18
21 on page 12 and asks whether or not you intend the section to

1 apply to a person whose appointment and removal is not
2 specifically specified or whether you mean literally one
3 whose appointment is not specified but whose removal may be
4 or one whose appointment is specified and removal not. Is
5 this your question, Delegate Grant?

6 DELEGATE GRANT: Yes, Mr. President.

7 THE PRESIDENT: Delegate Morgan.

8 DELEGATE MORGAN: We meant "or" in the disjunctive
9 and not "and."

10 THE PRESIDENT: You meant that a person with
11 respect to whom the method of appointment is specified, but
12 the method of removal is not specified, he may be removed
13 as prescribed by law and that a person whose appointment is
14 not prescribed but his removal is prescribed, he may be
15 appointed as prescribed by law; is this what you are saying?

16 DELEGATE MORGAN: That is correct, Mr. President.

17 THE PRESIDENT: Delegate Grant.

18 DELEGATE GRANT: My question possibly goes a
19 little further than that because you have both appointive
20 and elected officers. What I am assuming from what we have
21 done so far, do you mean appointment and removal to apply to

1 appointive officers or to appointive and elected officers in
2 the case of removal?

3 THE PRESIDENT: I take it the answer to the
4 previous question would give you an affirmative answer to
5 this. I am not sure that is what he intends. Did you
6 follow the second question, Delegate?

7 DELEGATE PENNIMAN: The question is whether it
8 applied to both elective and appointive officers.

9 THE PRESIDENT: The appointment can apply only to
10 appointive officers. The question is does removal apply to
11 only elective officers.

12 DELEGATE PENNIMAN: No. It applies to both
13 elective and appointive offices.

14 THE PRESIDENT: Delegate Grant.

15 DELEGATE GRANT: I am not sure I received the
16 answer. The removal applies to both elective and
17 appointive officers?

18 THE PRESIDENT: That is correct.

19 DELEGATE GRANT: Then it is meant in the
20 disjunctive and not in the conjunctive.

21 DELEGATE MORGAN: In the disjunctive.

1 THE PRESIDENT: Delegate Marion.

2 DELEGATE MARION: May I call your attention to
3 two other small typographical errors, one on page 4, line 25,
4 where the word "determine" appears to have an "s" on it that
5 does not belong there.

6 DELEGATE PENNIMAN: Thank you. That is quite
7 correct.

8 THE PRESIDENT: Is there any objection to striking
9 the "s" from the amendment submitted by the committee from
10 the word "determine" on line 25, page 4? If not the amendment
11 will be considered so modified.

12 DELEGATE MARION: On page 6, in the first two
13 lines we have allowed the word "the" to appear twice, one
14 right after another.

15 THE PRESIDENT: Delegate Adkins.

16 DELEGATE ADKINS: Mr. President, I am not entirely
17 satisfied with the colloquy relating to the change from
18 "president of the Senate" to "presiding officer." Would it
19 do great violence to the structure of the Committee on
20 Style's concept if we went back to use the term "president
21 of the Senate"?

1 THE PRESIDENT: Delegate Penniman.

2 DELEGATE PENNIMAN: There would be none whatsoever.
3 I was simply calling the attention of this Convetnion to the
4 fact that the Legislative Branch, they referred to him as the
5 presiding officer. Here we are naming him as the president
6 of the Senate. I have no objection.

7 THE PRESIDENT: Delegate Adkins.

8 DELEGATE ADKINS: In the opinion of the Committee
9 on Style, would it be preferable to say the "president of
10 the Senate," or would it be preferable to say "the
11 permanent presiding officer of the Senate" to remove the
12 possible problem that Delegate Grant raised about having a
13 president pro tem who might at some time accede to the
14 office of governor or lieutenant governor?

15 DELEGATE PENNIMAN: Either one might solve the
16 problem. In the absence of the chairman of the Committee
17 on Legislative Branch, we could change it to "permanent
18 presiding officer" until such time as he were here to
19 suggest a change.

20 THE PRESIDENT: Delegate Adkins.

21 DELEGATE ADKINS: Would the chairman of the

1 committee undertake to add the word "permanent" where the
2 words "presiding officer" occurs without the necessity of
3 my preparing an amendment?

4 DELEGATE PENNIMAN: Yes, sir, I would be glad to
5 do so.

6 THE PRESIDENT: Delegate Johnson.

7 DELEGATE JOHNSON: Just a question to Chairman
8 Penniman for clarification. It is probably out of an over-
9 abundance of caution but so the record is clear with respect
10 to Section 4.18, Chairman Penniman, would I be correct in
11 assuming that the deletion of the phrase "for at least five
12 years" on lines 4 and 5 and the deletion of the word "shall"
13 on line 6, that is a deletion from your Committee on Style's
14 original recommendation, that is the modification, those words
15 that I just used are being deleted because they are
16 necessary, is that not correct?

17 DELEGATE PENNIMAN: That is correct, Delegate
18 Johnson.

19 DELEGATE JOHNSON: And it is the Committee on
20 Style's clear intent that it was the Committee of the Whole's
21 clear intent that the Attorney General in order to qualify

1 for election or appointment must be a qualified voter in
2 the state for at least five years prior to his election or
3 appointment and must have been authorized to practice law in
4 the state for at least five years prior to his election or
5 appointment.

6 DELEGATE PENNIMAN: That is correct. It is as
7 true tonight as last night.

8 THE PRESIDENT: Delegate Freedlander.

9 DELEGATE FREEDLANDER: Chairman Penniman, page 9
10 and 10, since the title of this article is "Executive
11 Branch," is it necessary to use "structure of the Executive
12 Branch, reorganization of the Executive Branch," or could it
13 be phrased a different way?

14 THE PRESIDENT: Delegate Penniman.

15 DELEGATE PENNIMAN: We tried. We know exactly
16 the problem you are talking about. We would like to have
17 referred to the organization, but it is hard to use one
18 without adding -- we could strike it in most instances. It
19 is not at this point a particularly happy title, but it is
20 the best we could do as of this moment.

21 THE PRESIDENT: Delegate Adkins?

1 DELEGATE ADKINS: Maybe it is the late hour, but
2 I read Section 4.17 as making a substantive change which I
3 am confident was not intended by the committee. I read this
4 as saying or at least a possible interpretation is that
5 the Attorney General shall represent the state in the Court
6 of Appeals, the intermediate appellate court and the courts
7 of the United States in criminal cases and in all civil
8 cases or proceedings which is not the intent of the committee,
9 and I think that this can be construed to mean that the
10 Attorney General would thereby not represent the state in
11 civil cases in nisi prius courts.

12 It seems to me that the confusion arises by the
13 interposition of the language in all criminal cases and
14 specifying the courts prior to the final conclusion in all
15 civil cases or proceedings.

16 I am quite confident that was not the intent. It
17 may be the late hour that makes me read it that way.

18 THE PRESIDENT: I am not sure that I follow you.
19 The Attorney General was to represent the state in all civil
20 cases or proceedings in which the state is a party without
21 regard to the courts. Is that your understanding?

1 DELEGATE ADKINS: It is clearly my understanding.
2 But I think there is some question as to whether this
3 language says that because of the fact that it first
4 specifies the courts --

5 THE PRESIDENT: No, it specifies first in all
6 criminal cases.

7 DELEGATE ADKINS: It says in all criminal cases
8 and in all civil cases, but it does not indicate that the
9 civil cases or proceedings are in courts other than those
10 specified. It may be that I am reading something into it
11 that isn't here.

12 THE PRESIDENT: The Chair would reach exactly the
13 opposite conclusion which you do. But may I suggest,
14 Delegate Penniman, that in the cold light of dawn that you
15 consider this language afresh, perhaps with the aid of your
16 cochairman, and decide whether it is style as clear as it
17 would appear to be tonight.

18 DELEGATE PENNIMAN: I will be glad to turn it
19 over to Dr. Burdette.

20 THE PRESIDENT: Dr. Burdette, did you follow the
21 question?

1 Any other questions?

2 Delegate Henderson.

3 DELEGATE HENDERSON: I believe you used the
4 word, the case of the Attorney General, in the case of a
5 vacancy, that a governor shall appoint a person, and again
6 in connection with the Comptroller, appoint a person; did
7 you not mean a qualified person? In other words, there are
8 qualifications for each of them set up in the preceding
9 section.

10 THE PRESIDENT: Delegate Penniman.

11 DELEGATE PENNIMAN: I don't think we did violence
12 to what had already been stated. This is the reason that
13 I raised the question in connection at least with the
14 appointment of the Comptroller that one might want to add in
15 lines 46 that he have these qualifications preceding his
16 election or his appointment.

17 THE PRESIDENT: When this was presented by the
18 Executive Branch Committee and discussed before the
19 Committee of the Whole, this precise question was raised.
20 My recollection is that the chairman of the committee
21 deliberately was not requiring the Governor in making the

1 appointment to follow the same qualifications. He thought
2 he would, but they were not requiring it.

3 Delegate Morgan, can you recall what the dis-
4 cussion was on that point?

5 DELEGATE MORGAN: Mr. President, we have a
6 couple of amendments this evening so that the same qualifica-
7 tions will apply to an appointed comptroller and an appointed
8 attorney general as well as an elected attorney general and
9 elected comptroller.

10 THE PRESIDENT: Delegate Fornos.

11 DELEGATE FORNOS: In Section 4.05, line 29, you
12 refer to the lieutenant governors listed on the ballot with
13 the candidate for governor and then on line 32 you use the
14 words "chosen to run with the candidate."

15 There is no inference there or do you believe
16 that an inference might be drawn that this would determine
17 the method of selection of the lieutenant governor or would
18 it not be better to use the word listed again in line 32?

19 THE PRESIDENT: Delegate Penniman.

20 DELEGATE PENNIMAN: It would not, in my view,
21 have any change of meaning. One could be chosen by any

1 number of methods. It was not our intention to suggest any
2 method by using the word "chosen." In my view the word
3 "chosen" or "listed" in this particular spot would mean the
4 same thing. I intended no suggestion as to the method by
5 which he should have become the chosen person to go on the
6 list.

7 THE PRESIDENT: Delegate Fornos.

8 DELEGATE FORNOS: It appears it might place the
9 presumption that, rather than elected, the man was chosen.
10 Would you accept the word "listed" in line 32 as you have in
11 line 29?

12 THE PRESIDENT: Delegate Penniman.

13 DELEGATE PENNIMAN: I have no objection. This is
14 the first time someone raised it. The word "chosen"
15 suggested that he had been chosen in a primary election and
16 he objected to it that way, so it seems to be open to several
17 possible ways of being chosen. I don't see any particular
18 objection to changing it.

19 THE PRESIDENT: Delegate Fornos.

20 DELEGATE FORNOS: Can we agree to that change, or
21 do you have to offer a written amendment?

1 THE PRESIDENT: Delegate Penniman, if you desire
2 to modify the amendment submitted by the committee, you may
3 do so. In line 32 on page 2, as I understand it, if you
4 accept the suggestion, you would be changing the word "chosen"
5 to the word "listed."

6 DELEGATE FORNOS: Listed on the ballot?

7 DELEGATE PENNIMAN: I will accept it.

8 THE PRESIDENT: Is there any objection to con-
9 sidering the amendments recommended by the committee modified
10 so that in line 32 on page 2 the words "chosen to run" are
11 deleted and the words "listed on the ballot" are inserted in
12 lieu thereof?

13 If there is no objection, the amendments will be
14 so modified.

15 Any other questions?

16 Delegate Grant.

17 DELEGATE GRANT: Mr. Chairman, on page 13 you have
18 a Section 4.34, "State's Attorneys." I presume this is to
19 indicate that state's attorneys are to be considered part of
20 the Executive Branch? Is that correct?

21 THE PRESIDENT: Delegate Penniman.

1 DELEGATE PENNIMAN: This is the way it came to us.
2 We left it as it was, yes, sir.

3 THE PRESIDENT: Delegate Grant.

4 DELEGATE GRANT: I am correct then that state's
5 attorneys are part of the Executive Branch and therefore
6 anything referring to the Executive Branch would also refer
7 to state's attorneys.

8 THE PRESIDENT: The Chair would assume that to
9 be true, since the only branches being provided for in the
10 Constitution being drafted by this Convention are the
11 Executive, Legislative and Judicial, and there is no in-
12 dication at least that the state's attorney is a part of the
13 Judicial Branch or the Legislative. The inclusion in this
14 article would seem to indicate that he is in the Executive
15 Branch.

16 THE PRESIDENT: Delegate Grant.

17 DELEGATE GRANT: That was in conjunction with 4.30
18 which referred to the personnel in the Executive Branch.

19 THE PRESIDENT: I take it, Delegate Morgan, that
20 is a question more for you than for Delegate Penniman. The
21 question is whether or not the inclusion of Section 4.34 in

1 this article was intended to indicate that the office of
2 state's attorney was included in the Executive Branch so that
3 Section 4.30 referring to persons in the Executive Branch
4 would be applicable to state's attorneys.

5 DELEGATE MORGAN: I don't think there is any
6 question about it. We always assumed the state's attorneys
7 were members of the Executive Branch. They perform an
8 executive function.

9 THE PRESIDENT: Delegate Grant.

10 DELEGATE GRANT: I just wanted to make sure that
11 was in the record.

12 THE PRESIDENT: Any other questions? Delegate
13 Henderson.

14 DELEGATE HENDERSON: The state's attorneys I
15 believe are paid locally. They are not paid by the state
16 and we haven't made any provision for them and the Executive
17 Branch article takes them on our payroll, therefore I would
18 assume that they would remain in the Executive Branch, but
19 it is a fact that they are paid locally, I believe, every-
20 where.

21 THE PRESIDENT: Any other discussion? Any other

1 questions of the committee chairman?

2 Thank you.

3 Are there now any amendments with respect to
4 Style Committee recommendation EB-1 and EB-2?

5 As to Section 4.01? The Chair hears none.

6 As to Section 4.02? The Chair hears none.

7 Section 4.03? 4.04?

8 DELEGATE MORGAN: Mr. President.

9 THE PRESIDENT: Delegate Morgan.

10 DELEGATE MORGAN: I have a committee amendment
11 designated "G" to Section 4.04.

12 THE PRESIDENT: I take it that is not a style
13 amendment. That is a substantive change.

14 DELEGATE MORGAN: I guess it is a substantive
15 change.

16 THE PRESIDENT: We will come to that later.

17 Still considering only amendments as to style,
18 4.04? 4.05? Section 4.06? 4.07?

19 Delegate Morgan.

20 DELEGATE MORGAN: Mr. President, I don't know
21 whether this is a style amendment or not. It is an amendment

1 designated "H."

2 There is a provision in the Executive Article
3 at the present time for how tied elections are decided in
4 the case of the governor and --

5 THE PRESIDENT: Which section does this pertain
6 to?

7 DELEGATE MORGAN: Section 4.05. And it is to
8 extend this "Tied Election" section not only to the election
9 of the governor but also to the election of the comptroller
10 and the attorney general.

11 THE PRESIDENT: That is a substantive amendment.
12 Any other amendments as to style with respect to
13 4.09?

14 4.10?

15 4.11?

16 4.12?

17 4.13?

18 4.14?

19 Delegate Marion.

20 DELEGATE MARION. I believe my amendment "F" is
21 a style amendment, Mr. President.

1 THE PRESIDENT: I think it is style but it does
2 not pertain to the style amendments of the committee, so I
3 don't think it is in order. I will recognize you at the
4 proper time.

5 DELEGATE MORGAN: I believe the amendment, which
6 Delegate Marion has which is designated Amendment F, were
7 amendments which were actually adopted by the Committee on
8 Style but were not included in the brown copy. We have no
9 objection to that amendment whatsoever.

10 THE PRESIDENT: Well, I will consider it at the
11 proper time.

12 Will one of the pages please give Amendment F to
13 Delegate Penniman?

14 Delegate Penniman, will you consider whether
15 Delegate Morgan's statement is correct? He said that he
16 had understood that the Committee on Style had decided to
17 accept Amendment F but that it was not included in the
18 report of the committee.

19 DELEGATE PENNIMAN: I hesitate to answer the
20 question because this morning when we looked at it there
21 was enough doubt that we could not remember which had been

1 our last decision on the matter. The fact is that it is a
2 somewhat more detailed statement of the process of vetoing --

3 THE PRESIDENT: Let me suggest that you look at it
4 and when we come back to it we can act on it very quickly.

5 DELEGATE PENNIMAN: I have looked at it and I have
6 no objections to it. Accepted.

7 THE PRESIDENT: Pages please distribute Amendment
8 F.

9 This will be Amendment No. 1. The Clerk will
10 read the amendment.

11 MR. QUILLEN: "Committee Recommendation No. 1
12 as amended by Report No. S&D-13 to Committee Recommendation
13 No. EB-1, and EB-2, by Delegate Marion.

14 "On page 6 Section 4.14. Item Veto strike out
15 all of lines 27 through 31, inclusive, and insert in lieu
16 thereof the following:

17 "The Governor may reduce or strike out any item
18 in a supplementary appropriation bill. Each item or portion
19 of an item not disapproved shall become law, and each item
20 or portion of an item disapproved shall be subject to the
21 same procedure as a bill vetoed by the Governor."

1 THE PRESIDENT: Amendment No. 1 is submitted
2 by Delegate Marion, seconded by Delegate Morgan.

3 Delegate Morgan, the Chairman of the Committee,
4 and Delegate Penniman, Chairman of the Committee on Style
5 both are in agreement that the amendment should be adopted
6 and supercede the committee recommendation.

7 A vote Aye is a vote in favor of the amendment.
8 A vote No is a vote against.

9 Cast your votes.

10 Has every delegate voted?

11 The pages will please distribute Amendment
12 1 to the delegates who do not have copies.

13 Will you please get some copies of Amendment F?
14 Delegates who do not have a copy please indicate.

15 Has every delegate voted?

16 Does any delegate desire to change his vote?

17 The clerk will record the vote.

18 There being 89 votes in the affirmative and none
19 in the negative, the motion is carried and the amendment
20 is adopted.

21 I skipped over 4.06 and 4.07.

1 Are there any amendments to those sections?

2 4.08? 4.15? 4.16? 4.17? 4.18? 4.19?

3 4.20? 4.21? 4.22? 4.23? 4.24?

4 Delegate Marion.

5 DELEGATE MARION: Again, Mr. President, I think
6 that Amendment B as to section 4.24 is a style amendment.

7 THE PRESIDENT: It may be, but it does not
8 pertain to the amendments suggested by the committee and it is
9 not in order at this time. I will recognize you.

10 Delegate Morgan.

11 DELEGATE MORGAN: I wanted to take issue with
12 Delegate Marion.

13 THE PRESIDENT: Would you state that again?

14 DELEGATE MORGAN: Mr. President, I just
15 wanted to take issue with Delegate Marion about its being a
16 style amendment.

17 THE PRESIDENT: Very well.

18 Are there any amendments to style on 4.25?

19 Delegate Burdette.

20 DELEGATE BURDETTE: Before we get entirely be-
21 yond the question, I wonder if even out of order I might ask

1 Delegate Marion and the Chair about the amendment
2 which we just passed.

3 THE PRESIDENT: I am not sure that I follow
4 what you mean.

5 DELEGATE BURDETTE: I don't have the number,
6 but it applies to section 4.14. Apparently it is Amend-
7 ment 1.

8 I am not sure that it is clear here -- it may
9 be -- that when the governor has reduced or stricken
10 out he has disapproved. In the last three lines, "and
11 each item or portion of an item disapproved shall be
12 subject to the same procedure," does that disapprove
13 mean the same thing as "reduce" or "strike out"?

14 I did not want it to go through without atten-
15 tion.

16 THE PRESIDENT: Delegate Marion.

17 DELEGATE MARION: Mr. President, that was
18 certainly the intention we had, and when the committee
19 voted on this language, it was with that thought in
20 mind that we approved this wording, which included
21 the word "disapproved" in two places in the amendment.

1 THE PRESIDENT: Delegate Burdette.

2 DELEGATE BURDETTE: I think there may be
3 some doubt about this, but, Mr. President, I don't want
4 to obstruct the proceedings. I simply want to flag
5 things, that problems in less dignified occasions are
6 sometimes called goofs.

7 THE PRESIDENT: Any amendments to section 4.26?
8 4.27?

9 Delegate Marion.

10 DELEGATE MARION: Amendment B to 4.26.

11 THE PRESIDENT: I am not sure from a quick
12 glance whether it is style or substantive. What you
13 are doing is to change the sentence so it refers to executive
14 order in the singular, rather than the plural. Is it
15 purely stylistic?

16 DELEGATE MARION: It is intended to be. I
17 understand Chairman Morgan has no objection to it.

18 THE PRESIDENT: Very well.

19 Pages will please distribute Amendment B.
20 This will be Amendment No. 2.

21 The Clerk will read the amendment.

1 MR. QUILLEN: Amendment No. 2 to Committee
2 Recommendations EB-1 and EB-2 as amended by Report No.
3 S&D-13, by Delegate Marion:

4 On page 10, Section 4.26, Reorganization of the
5 Executive Branch, in line 38 strike out the word "orders"
6 and insert in lieu thereof the word "order"; and

7 In line 40 strike out the word "each" and
8 insert in lieu thereof the word "the".

9 THE PRESIDENT: The amendment is submitted by
10 Delegate Marion. Is there a second?

11 (Whereupon, the amendment was seconded.)

12 THE PRESIDENT: The amendment is seconded.
13 Delegate Morgan.

14 DELEGATE MORGAN: Mr. President, we have no
15 objection to this amendment. It is purely a matter of
16 style.

17 THE PRESIDENT: Delegate Penniman, do you
18 have any comment?

19 DELEGATE PENNIMAN: Mr. President, my only
20 comment is that if we are going to change it to
21 the singular, that it might read better if we say "an

1 executive order," rather than to begin the sentence
2 on line 37 with "The," because it would be "an", meaning
3 "any".

4 THE PRESIDENT: Would you accept the amendment?

5 DELEGATE MARION: Yes, sir.

6 THE PRESIDENT: Is there any objection to
7 considering the amendment modified so that in line 37
8 the word "the" would be changed to the word "an"?

9 If there is no objection,.the amendment
10 is considered as so modified.

11 The amendment has been recommended for adoption
12 by the Chairman of the Committee on the Executive Branch
13 and the Chairman of the Committee on Style. Is there
14 any discussion?

15 Are you ready for the question?

16 The question arises on the adoption of Amendment
17 2. The clerk will ring the quorum bell.

18 A vote Aye is a vote in favor of the amendment.
19 A vote No is a vote against.

20 Cast your votes.

21 Has every delegate voted? Does any delegate

1 desire to change his vote?

2 The clerk will record the vote.

3 There being 97 votes in the affirmative and
4 one in the negative, the motion is carried and the amend-
5 ment is adopted.

6 Any further amendments to section 4.26?

7 Are there any amendments to section 4.28?

8 Delegate Marion.

9 DELEGATE MARION: Amendment C, Mr. President.

10 THE PRESIDENT: Is this intended to be only
11 a style change?

12 DELEGATE MARION: It is so intended, Mr. Presi-
13 dent. I don't think the Chairman of the Committee is
14 willing to acquiesce so readily, but as I understand the
15 meaning of the sentence, the words which I seek to delete
16 by this amendment really are saying the same thing as
17 chief administrative officer, but are just calling him
18 by another name, since the entire sentence refers only
19 to the appointment of chief administrative officers.

20 The word "head" is used in other context, and it
21 is misleading to use the word "head" in line 28.

1 THE PRESIDENT: The Chair doesn't agree
2 that it is an amendment as to style. I think it involves
3 more than that.

4 We will recognize you at the proper time.

5 Section 4.28? Any other amendment s?

6 Section 4.29? Section 4.30? Section 4.31?

7 Section 4.32? Section 4.33? Section 4.34?

8 Apparently there are no further amendments as
9 to style.

10 The question now arises --

11 Delegate Byrnes.

12 DELEGATE BYRNES: Mr. Chairman, I apologize.

13 I was making a parliamentary inquiry when you touched
14 upon this section.

15 I would like to direct a question, if I may,
16 to the Chairman of the Legislative Committee, Chairman
17 Morgan.

18 THE PRESIDENT: Does it have any bearing on
19 the question of style?

20 DELEGATE BYRNES: Yes, it does.

21 THE PRESIDENT: What is the section?

1 Section 4.17.

2 THE PRESIDENT: State the question.

3 DELEGATE BYRNES: Chairman Morgan, section
4 4.17, line 18, I understand the phrase "date after
5 passage" means the date later, a date later than a
6 date of passage over the veto. Is that a true interpretation?
7

8 THE PRESIDENT: Delegate Morgan.

9 DELEGATE MORGAN: That is correct. That is
10 passage over the veto.

11 DELEGATE BYRNES: Thank you.

12 THE PRESIDENT: The question now arises on
13 the adoption of the amendments recommended by the
14 Committee on Style with respect to Committee Recommendation
15 EB-1 and EB-2. The clerk will ring the quorum bell.

16 Delegate Burdette.

17 DELEGATE BURDETTE: I want to be sure that
18 in our procedure we are protecting Delegate Adkins'
19 request that 4.17 have some attention. I want you
20 to make any comment that you want that does protect that.

21 THE PRESIDENT: I don't think that we will

1 get to the point of finally having adopted EB-1 and EB-2
2 tonight, and I think he will therefore have the oppor-
3 tunity.

4 If we do, I will flag it for him.

5 The question arises on the adoption of
6 the amendments recommended by the Committee on Style
7 with respect to EB-1 and EB-2 as modified. A vote Aye
8 is a vote in favor of the committee recommendations, the
9 amendments recommended by the committee; a vote No is
10 a vote against the amendments.

11 Cast your votes.

12 Has every delegate voted? Does any delegate de-
13 sire to change his vote?

14 The clerk will record the vote.

15 There being 95 votes in the affirmative and
16 0 in the negative, the amendments to Committee Recommenda-
17 tion EB-1 and EB-2, recommended by the Committee on Style,
18 are adopted.

19 Committee Recommendations EB-1 and EB-2 are
20 now open to further amendment.

21 Are there any amendments with respect to

1 section 4.01?

2 The Chair hears none.

3 Are there amendments with respect to section
4 4.02?

5 The Chair hears none.

6 Are there any amendments with respect to section
7 4.03?

8 The Chair hears none.

9 Are there any amendments with respect to
10 section 4.04?

11 Delegate Morgan, you have an amendment?

12 I don't have a letter for it. I am trying to find out
13 if it is printed.

14 DELEGATE MORGAN: It is a letter "T".

15 THE PRESIDENT: I have one that says "To replace
16 G".

17 DELEGATE MORGAN: It is letter "T".

18 THE PRESIDENT: Amendment T. The pages will
19 please distribute Amendment T. This will be Amendment
20 No. 3.

21 The clerk will read the amendment.

1 MR. QUILLEN: Amendment 3 to Committee Recommen-
2 dation EB-1 and EB-2, as amended by Report No. S&D-13,
3 by Delegate Morgan:

4 On page 2, Section 4.04, Qualifications of
5 Lieutenant Governor, in lines 13 and 15 respectively
6 in each instance after the word "election" add the words
7 "or appointment".

8 THE PRESIDENT: The amendment is submitted
9 by Delegate Morgan.

10 Is there a second?

11 (Whereupon, the amendment was seconded.)

12 THE PRESIDENT: The Chair recognizes Delegate
13 Morgan.

14 DELEGATE MORGAN: This is really a committee
15 amendment, and it is to make an appointed lieutenant
16 governor have the same qualifications as an elective
17 lieutenant governor. Under the Executive Article
18 if the governor dies the lieutenant governor has a
19 right to nominate a suitable person to the General Assembly.
20 When he is confirmed by the General Assembly, he
21 then becomes lieutenant governor.

1 this makes the same qualifications applicable to an
2 elective lieutenant governor as are applicable to
3 an appointed one.

4 THE PRESIDENT: Are you ready for the question?

5 The clerk will ring the quorum bell.

6 The question arises on the adoption of Amendment
7 No. 3. A vote Aye is a vote in favor of the amendment.
8 A vote No is a vote against.

9 Cast your vote.

10 Has every delegate voted? Does any delegate
11 desire to change his vote?

12 The Clerk will record the vote.

13 There being 92 votes in the affirmative and
14 0 in the negative, the motion is carried and the amend-
15 ment is adopted.

16 Any other amendments to section 4.04?

17 Are there any amendments to section 4.05?

18 Delegate Morgan, you have Amendment H?

19 DELEGATE MORGAN: That is correct, Mr. Presi-
20 dent, Amendment designated "H".

21 THE PRESIDENT: Just a second.

1 Delegate Byrnes, your Amendment O has been
2 superceded. The modification has already been made to it.

3 The pages will please distribute Amendment H.
4 This is Amendment 4. The clerk will read the amendment.

5 MR. QUILLEN: Amendment No. 4 to Committee
6 Recommendations No. EB-1 and EB-2 as amended by Report
7 No. S&D-13, by Delegate Morgan, Chairman of the Committee
8 on the Executive Branch:

9 On page 2, Section 4.05, Election of Governor
10 and Lieutenant Governor, in lines 36 through 43, inclusive,
11 strike out beginning with the words "If there" in
12 line 36 down to and including the word "house." in line 43;

13 And following line 48, add this new section:

14 "Section 4.____. Tied Elections:

15 "If at any general election two or more candi-
16 dates for Governor, for Attorney General or for Comptroller
17 shall have the highest and an equal number of votes for
18 the same office, one of them shall be elected to that
19 office by the affirmative vote of a majority of all
20 members of the General Assembly in joint session. The
21 election shall be the first order of business after the

1 organization of each house."

2 THE PRESIDENT: The amendment is submitted by
3 Delegate Morgan.

4 Is there a second?

5 (Whereupon, the amendment was seconded.)

6 THE PRESIDENT: The Chair recognizes Delegate
7 Morgan.

8 DELEGATE MORGAN: Mr. President, in section
9 4.05, there is a title "Election Provisions", relating
10 to the election of governor. The two sections relating
11 to the attorney general and the comptroller incorporate
12 by ~~refer~~ence the provisions for the election of the
13 governor. It seemed to us that it would be much better
14 to have a section applying to tied elections for governor,
15 comptroller and attorney general. That is the purpose.
16 It does not make any substantive change in what the
17 Executive Branch Committee has already reported.

18 THE PRESIDENT: Delegate Morgan, to paraphrase
19 Delegate Adkins, maybe it is getting late, and I am
20 not reading very clearly, but I am wondering if the
21 way this is phrased you are requiring in one general

1 election there be tie votes for governor, attorney
2 general and comptroller -- all three.

3 Delegate Penniman, would you take a hard look?

4 DELEGATE PENNIMAN: I had taken a hard look
5 in the past and had not found the problem you are speaking
6 of. I can see how it might possibly be interpreted that
7 way.

8 THE PRESIDENT: Is it agreeable to let the
9 Committee on Style wrestle further with the problem? Is
10 that agreeable?

11 DELEGATE MORGAN: It certainly is agreeable
12 to me.

13 THE PRESIDENT: Very well, Delegate Penniman.

14 DELEGATE PENNIMAN: I presume I have no choice.

15 THE PRESIDENT: On the contrary, you have the last
16 choice.

17 Any further discussion? Are you ready for the
18 question?

19 The questionarises on the adoption of Amendment
20 4. A vote Aye is a vote in favor of the amendment. A
21 vote No is a vote against.

1 Cast your vote.

2 Has every delegate voted? Does any delegate
3 desire to change his vote?

4 The clerk will record the vote.

5 There being 92 votes in the affirmative
6 and five in the negative, the motion is carried and the
7 amendment is adopted.

8 Any other amendments to section 4.05? Any
9 to 4.06? Any amendments to section 4.07? Any amendments
10 to section 4.08?

11 Delegate Byrnes, do you desire to offer your
12 amendment?

13 DELEGATE BYRNES: No, sir.

14 THE PRESIDENT: Thank you. (Applause.)

15 THE PRESIDENT: Any other amendments to
16 section 4.08? Any amendments to section 4.09? Any
17 amendments to section 4.10? Any amendments to section
18 4.11?

19 Delegate Morgan, do you desire to offer your
20 Amendment I?

21 DELEGATE MORGAN: We do, sir.

1 THE PRESIDENT: The pages will distribute
2 your amendment I.

3 Delegate Adkins, are you going to submit
4 an amendment with respect to the word "presiding officer"
5 in section 4.10?

6 DELEGATE ADKINS: Mr. President, I understand
7 that the Committee on Style has agreed to accept the
8 amendment simply adding the word "permanent" before
9 "presiding officer," and it has been my understanding --

10 THE PRESIDENT: I am sorry. I am lost.

11 Accept which amendment? We don't have an
12 amendment with respect to 4.10.

13 DELEGATE ADKINS: No, sir. I understood the
14 Committee on Style had agreed on the motion to add the word
15 "permanent" before the words "presiding officer" throughout.

16 THE PRESIDENT: Delegate Penniman, was that correct?

17 DELEGATE PENNIMAN: This was my understanding,
18 and the suggestion was made I think by the Chairman that
19 Delegate Burdette and I handle this problem, and I delegated
20 it to Delegate Burdette.

21 THE PRESIDENT: Delegate Adkins.

1 DELEGATE ADKINS: I think Delegate Penniman
2 is referring to another section about a question that
3 I raised. I think his staff assistant has it in his
4 hand right in front of him.

5 We have all agreed on it as a committee amendment,
6 if it could be done that informally.

7 THE PRESIDENT: It could have been before we
8 acted on them.

9 Delegate Penniman.

10 DELEGATE PENNIMAN: I had made a mistake in
11 the particular one, but it is true that he asked the
12 question and I had agreed to it, and I thought that it
13 was included in your putting of the motion --

14 THE PRESIDENT: No. My copy was not marked, and
15 it was not included.

16 DELEGATE PENNIMAN: I am sorry.

17 T HE PRESIDENT: We can pick it up now. I think
18 it would be more orderly to pick it up by amendment.
19 I will take care of it.

20 Delegate Della.

21 DELEGATE DELLA: Delegate Adkins, will you

1 yield for a question?

2 THE PRESIDENT: Delegate Adkins, would you
3 take the floor to yield to a question?

4 DELEGATE ADKINS: If it is in order, Mr. President.

5 THE PRESIDENT: Delegate Della.

6 DELEGATE DELLA: Is it your understanding
7 that a person who is elected as a presiding officer
8 of the Senate for one year is a permanent officer?

9 DELEGATE ADKINS: For the period he is elected
10 he is the permanent presiding officer, vis-a-vis the
11 President Pro Tempore, who is not a permanent officer.

12 DELEGATE DELLA: The President Pro Tem is not
13 a permanent officer as the President Pro Tem?

14 DELEGATE ADKINS: I certainly don't want to
15 get into a quarrel with you, sir, about the rules of the
16 Senate of Maryland. My understanding has been that the
17 permanent presiding officer was the president. The
18 President Pro Tem is not the permanent presiding officer.

19 THE PRESIDENT: Delegate Della.

20 DELEGATE DELLA: That is true, Delegate Adkins,
21 but it is a question of terminology now, of a permanent

1 officer. Does it mean that he is a permanent officer
2 of the Senate as long as he is there, or is it for the
3 period of one year when he is elected as the presiding
4 officer of the Senate?

5 THE PRESIDENT: Delegate Della, I take it from
6 Delegate Adkins' previous answer that it was his inten-
7 tion, at least, by suggesting the addition of the word
8 "permanent" that "permanent presiding officer" meant
9 the person elected to the office of presiding officer.
10 He would be regarded as the permanent officer for the
11 entire term for which he was elected, even though
12 at some particular period during that term he might be
13 absent and there would be a temporary presiding officer
14 in his absence.

15 DELEGATE DELLA: It is only a question of termin-
16 ology, what is meant by "permanent".

17 I think the President of the Senate would be
18 a more descriptive term than a permanent officer.

19 THE PRESIDENT: Delegate Adkins.

20 DELEGATE ADKINS: I don't know that anything
21 further needs to be said. I agree with the President

1 of the Senate too. The Committee on Style saw fit
2 to change it. I want to tie it down so the President Pro
3 Tem can not succeed to the office of governor or lieutenant
4 governor in the event of the death of his predecessors.

5 THE PRESIDENT: Delegate Penniman, the only
6 reason the Committee on Style changed the language from
7 President of the Senate to Presiding Officer of the Senate
8 is because the similar article on the Legislative Branch
9 used the term "presiding officer of the Senate."

10 Is there any reason why the Executive article
11 couldn't use the term President of the Senate?

12 DELEGATE PENNIMAN: Certainly not. I was
13 trying to call it to the attention of the Convention and
14 not freeze a word in that was contrary to the decision of
15 thisbody.

16 THE PRESIDENT: It seems to the Chair that
17 the obvious intent of all the parties is to designate
18 an officer, and there is much greater certainty by the
19 use of the word "president" rather than by the use of
20 the words "presiding officer."

21 DELEGATE MARION: Would the Speaker of the

1 House also have to be mentioned since the legislative
2 article refers to the presiding officer of each house?
3 If you use "President of the Senate" there you have
4 to use the equivalent term for the presiding officer of
5 the House of Delegates, it seems to me.

6 THE PRESIDENT: Well, I don't have the article
7 in front of me right now, but it seems to the Chair at
8 least that it is sort of getting the cart before the
9 horse to struggle with indefiniteness in this article
10 on an important matter such as gubernatorial succession
11 in order to avoid maybe using two words in an article
12 on the Legislative Branch.

13 Is Delegate Gallagher here?

14 Delegate Burdette.

15 DELEGATE BURDETTE: I simply rose in the absence
16 of Delegate Gallagher, Chairman of the Committee on the
17 Legislative Branch. Since I am a member of the
18 Committee on the Legislative Branch, I did want to
19 protect what I thought to be some intent on the
20 part of the Legislative Branch that the rules of each
21 house would determine the character of the presiding

1 officer in that house.

2 There are other members here who are better
3 able than I to speak to the importance of the point.

4 THE PRESIDENT: Let the Chair make this sug-
5 gestion so we can move on. I will consider an amendment
6 submitted by Delegate Adkins with respect to section 4.10
7 to eliminate the words "presiding officer" and restore
8 the words "President of the Senate" with the under-
9 standing that when the article on the Legislative Branch
10 is considered tomorrow, if it appears desirable at
11 that time to reconsider the language in this section,
12 a motion for reconsideration by the Committee on Style
13 is always in order, and the Chair would recognize
14 it at that time.

15 I think we can make better time.

16 Delegate Adkins, would you be willing to
17 make such a motion?

18 DELEGATE ADKINS: I would. I think also
19 that change needs to be made in 4.09.

20 THE PRESIDENT: For what purpose does Delegate
21 Mentzer rise?

1 DELEGATE MENTZER: To call your attention to
2 the fact that the words "presiding officer" are used
3 at least two times in the Finance section.

4 THE PRESIDENT: Presiding officer of the Senate,
5 or both houses?

6 DELEGATE MENTZER: Both houses.

7 THE PRESIDENT: Well, it seems to the Chair,
8 and I don't have the two articles before me, that there
9 is no inconsistency in each of those articles to referring
10 to the presiding officer of the two houses and referring
11 to the President of the Senate in this article, and
12 that is why I made the suggestion.

13 Delegate Penniman.

14 DELEGATE PENNIMAN: Mr. President, there is
15 one reference in LB-1 to the presiding officer of the
16 Senate and the presiding officer of the House. On other
17 occasions it refers to the presiding officer of the
18 two houses, and it would certainly be correct to leave it
19 presiding officers.

20 THE PRESIDENT: All right.

21 Delegate Adkins, this would be Amendment 5

1 with respect to section 4.09. Change "presiding officer"
2 to "president" wherever it appears.

3 Is there a second?

4 (Whereupon, the motion was seconded.)

5 THE PRESIDENT: Is there any discussion?

6 Are you ready for the question?

7 The clerk will ring the quorum bell.

8 The question arises on the adoption of Amendment
9 5, to change the words "presiding officer" in section
10 4.05 wherever it appears to "president".

11 A vote Aye is a vote for the amendment. A vote
12 No is a vote against.

13 Cast your votes.

14 Has every delegate voted? Does any delegate
15 desire to change his vote?

16 The clerk will record the vote.

17 There being 93 votes in the affirmative and 0 in
18 the negative, the motion is carried and the amendment is
19 adopted.

20 Amendment No. 6 in section 4.10, to change the
21 word "presiding officer" wherever they appear to the word

1 "president".

2 Do you make such a motion, Delegate Adkins?

3 DELEGATE ADKINS: Yes, sir.

4 THE PRESIDENT: Is there a second?

5 (Whereupon, the motion was seconded.)

6 THE PRESIDENT: Is there any discussion?

7 Are you ready for the question?

8 The question arises on the adoption of Amendment
9 No. 6, to change the words "presiding officer" wherever
10 they appear in section 4.10 to the word "president".

11 Cast your votes.

12 A vote Aye is a vote in favor of the amendment.

13 A vote No is a vote against.

14 Has every delegate voted? Does any delegate
15 desire to change his vote? The clerk will record the
16 vote.

17 There being 90 votes in the affirmative and
18 1 in the negative, the motion is carried and the amendment
19 is adopted.

20 Amendment I will now be Amendment No. 7. The
21 clerk will read the amendment.

1 MR. QUILLEN: "Amendment No. 7 to Committee
2 Recommendations EB-1 and EB-2 as amended by Renort No. S&D-13
3 by Delegate Morgan, chairman of the Committee on the
4 Executive Branch.

5 "On pages 5 and 6 Section 4.11. Adjudication
6 of Disputes in line 50 on page 5 and line 1 on page 6 strike
7 out the following:
8 'or the service of Lieutenant Governor as acting Governor'
9 and insert in lieu thereof the following: 'or the Lieutenant
10 Governor or presiding officer of the Senate acting as
11 Governor'."

12 THE PRESIDENT: Delegate Morgan, do you desire to
13 amend your amendment in line 9 to strike out "presiding
14 officer" and write in " president"?

15 DELEGATE MORGAN: I do.

16 THE PRESIDENT: If there is no objection, the
17 amendment is modified.

18 Delegate Morgan, this is to correct an oversight.
19 In setting forth the jurisdiction of the Court of Appeals,
20 we neglected to give the Court of Appeals jurisdiction to
21 adjudicate disputes or questions arising from the service of

1 the providing of the president of the Senate as acting
2 governor and that was the only omission we made in that
3 section. This was merely to correct that omission.

4 THE PRESIDENT: Any discussion? Are you ready
5 for the question? The question arises on the adoption of
6 the amendment. A vote Aye is a vote in favor. A vote No is
7 a vote against. Cast your vote.

8 Has every delegate voted? Does any delegate desire
9 to change his vote?

10 Delegate Beatrice Miller.

11 DELEGATE BEATRICE MILLER: We are wondering whether
12 the words "or the service of" should be stricken in that
13 sentence.

14 THE PRESIDENT: Delegate Morgan, did you hear the
15 question?

16 Delegate Miller, there is a change as you see, and
17 I think perhaps the amendment was prepared before the amend-
18 ments of the Committee on Style had been known.

19 Delegate Morgan, the change comes about because
20 in the original text it was serving as acting governor and
21 you used the words "acting as governor."

1 DELEGATE MORGAN: That is correct, Mr. President.

2 THE PRESIDENT: I assume, Delegate Miller, that
3 the words "or the service of" should come out in the light
4 of the verb "acting" in line 8, but I would also assume the
5 Committee on Style could restructure the sentence the way
6 it was before.

7 Delegate Marion.

8 DELEGATE MARION: Mr. President, when the
9 Committee on Style was working on this particular section,
10 Section 4.11, we were given to understand that the listing
11 of the areas of jurisdiction for the Court of Appeals were
12 spelled out as they were in that section originally so as to
13 correspond to the five preceding sections, Sections 4.06 to
14 Section 4.10.

15 The language which this seeks to delete refers to
16 Section 4.07 in which there is contained no reference to the
17 President of the Senate as acting governor. That comes
18 under Section 4.09, and we were told by the staff adviser
19 that this was the best way really to incorporate by refer-
20 ence all that was contained in those five prior sections.

21 THE PRESIDENT: Delegate Morgan.

1 DELEGATE MORGAN: Mr. President, I don't quite
2 understand what Delegate Marion is talking about. In Section
3 4.09 under certain circumstances, beginning at the bottom of
4 page 4 and the top of page 5, the presiding officer of the
5 Senate serves as acting governor until the newly elected
6 governor is qualified. Now, there was no mention of that in
7 the jurisdiction that was given to the Court of Appeals and
8 this was simply to fill that void and that is the sole
9 purpose of the amendment.

10 THE PRESIDENT: Delegate Marion.

11 DELEGATE MARION: My only point was that -- Mr.
12 President, perhaps the hour is too late for me to make my-
13 self clear.

14 (Laughter.)

15 DELEGATE MARION: The point that I was trying to
16 make was that when we considered this in the Committee on
17 Style, we were advised that the five items listed in Section
18 4.11, the areas of jurisdiction of the Court of Appeals be-
19 ginning with "the failure of the governor-elect to take
20 office" down through to wherever the sentence ends were in
21 effect the captions or titles of the five preceding sections

1 and the section which this includes refers to the service
2 of lieutenant governor as acting governor, Section 4.07,
3 which in the body of the section does not provide for the
4 president of the Senate to serve as acting governor. The
5 only time when the president of the Senate is mentioned as
6 serving as acting governor is in Section 4.09 which is
7 captioned "Succession to Office as Governor and Lieutenant
8 Governor."

9 Admittedly it is difficult to spell out all of
10 the areas of jurisdiction in those six sections, five
11 sections, but to make it clear, we just followed in effect
12 what the committee had done by putting the subject headings
13 in the sentence in 4.11, and I just raised the question of
14 whether or not by adopting this amendment we destroyed the
15 intent which we had which was the reference back to each of
16 these five preceding sections to indicate that those were
17 the areas of jurisdiction; certainly there are instances in
18 Section 4.09 where the president of the Senate does serve as
19 acting governor.

20 THE PRESIDENT: Delegate Morgan.

21 DELEGATE MORGAN: Mr. President, that is why this

1 amendment is being proposed by the Committee on the Executive
2 Branch and why it could not be proposed by the Committee on
3 Style and Drafting, because it was to correct an oversight
4 that we were originally responsible for when we drafted it
5 and that is the sole purpose of the amendment. I can't
6 understand why it is taking so darn much time to dispose of
7 it.

8 THE PRESIDENT: Very well.

9 Delegate Burdette.

10 DELEGATE BURDETTE: I think that one of the
11 problems that has been developed in the omission of the word
12 "service" and the use of the language proposed here is that
13 it seems to give inadvertently -- it seems to give to the
14 Court of Appeals the power to deal, not with the service of,
15 but with the lieutenant governor or the president of the
16 Senate acting as governor.

17 THE PRESIDENT: Governor Burdette, we heretofore
18 indicated to the chairman of the Committee on Style in
19 response to a substantially similar comment by Delegate
20 Beatrice Miller that the Committee on Style could restructure
21 the sentence in the form of the balance of the section.

1 Has every delegate voted? Does any delegate
2 desire to change his vote? This is a vote on Amendment No.
3 7.

4 Has every delegate voted? Does any delegate
5 desire to change his vote?

6 Delegate Gill.

7 DELEGATE GILL: Should we vote on this until we
8 know what the Style Committee has done with it?

9 THE PRESIDENT: You are voting on the substance.
10 Every recommendation goes back to the Committee on Style and
11 then comes back to the Convention on third reading. You
12 will have the opportunity to consider any change that the
13 Committee on Style makes.

14 DELEGATE GILL: I am not questioning the vote on
15 the style. I am questioning voting on the substance because
16 Delegate Marion wasn't sure how he was explaining it. We
17 don't know whether Delegate Penniman will know how to change
18 it. We won't know what we are voting on.

19 THE PRESIDENT: Delegate Morgan indicated he
20 disagreed with what Delegate Marion stated. I think the
21 Committee on Style can straighten it out. Has every

1 delegate voted? Any delegate desire to change his vote?

2 The Clerk will record the vote.

3 There being 98 votes in the affirmative and 1 in
4 the negative, the motion is carried and the amendment is
5 adopted.

6 Any other amendments to Section 4.11.

7 Any amendments to Section 4.12?

8 Any amendments to Section 4.13?

9 Any amendments to Section 4.14?

10 4.15? 4.16? 4.17? 4.18?

11 Delegate Byrnes, do you desire to offer your
12 Amendment KU?

13 DELEGATE BYRNES: No, sir.

14 (Applause.)

15 THE PRESIDENT: Any other amendments to Section
16 4.18?

17 Any amendments to Section 4.19?

18 Delegate Morgan, do you desire to offer your
19 Amendment J?

20 DELEGATE MORGAN: Yes, I do.

21 THE PRESIDENT: Pages please distribute Amendment

1 J.

2 Delegate Clagett.

3 DELEGATE CLAGETT: Parliamentary inquiry.

4 THE PRESIDENT: State the inquiry.

5 DELEGATE CLAGETT: When does the new working day
6 begin?

7 THE PRESIDENT: That is not a parliamentary in-
8 quiry. It doesn't make any difference because you are going
9 to be working both days and you only get paid once for each
10 day.

11 This will be Amendment 8. The Clerk will read the
12 amendment.

13 The Chair would like to finish consideration of
14 this article. It will not take us long. There are not very
15 many amendments left. The Clerk will read the amendment.

16 MR. QUILLEN: "Amendment No. 8 as amended by
17 Report No. S&D-13 to Committee Recommendation No. EB-1 and
18 EB-2 by Delegate Morgan, Chairman of the Committee on the
19 Executive Branch.

20 "On page 8 Section 4.19. Election of Attorney
21 General in lines 12 through 15 strike out the following:

1 "'The Attorney General shall be elected at the same time,
2 in the same manner, and for the same term as the Governor.'
3 and insert in lieu thereof the following:

4 "'The Attorney General shall be elected for a term of four
5 years by the voters of the State and shall serve until his
6 successor has qualified. The term of the Attorney General
7 shall begin on the first Wednesday in January following his
8 election unless that day is a legal holiday in which case
9 his term shall begin on the next day.'"

10 THE PRESIDENT: The amendment as submitted by
11 Delegate Morgan. Is there a second?

12 (The amendment was duly seconded.)

13 THE PRESIDENT: The Chair recognizes Delegate
14 Morgan.

15 DELEGATE MORGAN: Mr. President, this is purely
16 a clarifying amendment to clarify the Executive Branch
17 Article that came from the Executive Committee. It
18 attempted to incorporate in the attorney general provision
19 and also in the comptroller provision the election provision
20 with respect to the governor.

21 We found that didn't work very well because there

1 is a provision in the election of the governor where if a
2 governor and lieutenant governor both die during the first
3 year of their term, then you have another election for
4 governor. Now we didn't want to have another election for
5 attorney general so we thought it was necessary to spell out
6 in both the attorney general section and the comptroller
7 section what we specifically meant in the election provision
8 for the attorney general and comptroller and that is all this
9 amendment does.

10 THE PRESIDENT: Any further discussion?

11 Are you ready for the question?

12 Delegate Case.

13 DELEGATE CASE: Will you yield to a question?

14 THE PRESIDENT: Will the chairman yield?

15 DELEGATE MORGAN: I will.

16 THE PRESIDENT: Delegate Case.

17 DELEGATE CASE: If the term of the attorney
18 general starts on a legal holiday and goes for four years
19 and another attorney general is elected, would it be possible
20 under this to have two attorney generals for one day?

21 THE PRESIDENT: Delegate Morgan.

1 DELEGATE MORGAN: That would be theoretically
2 possible.

3 THE PRESIDENT: Delegate Case.

4 DELEGATE CASE: Mr. President, the chairman of
5 the Committee on Style tells me that in that case there will
6 be two governors, too, so I think it is all right.

7 THE PRESIDENT: I was just looking at that, and
8 I had a faint recollection that Delegate Chabot raised this
9 question long ago and worked out an amendment to cover it,
10 and I can't remember what section it was.

11 It is in the Legislative Branch.

12 Well, may I request the Committee on Style to
13 consider that language in the article on Legislative Branch
14 together with this when it has this next under considera-
15 tion. It pertains to Section 4.05 as well as to Section
16 4.19.

17 Delegate Beatrice Miller.

18 DELEGATE BEATRICE MILLER: Mr. Chairman, I assume
19 it is the intention of the chairman that the term of the
20 attorney general shall begin, or he shall be elected at the
21 same time as the governor.

1 THE PRESIDENT: Delegate Morgan.

2 DELEGATE MORGAN: That is correct.

3 THE PRESIDENT: Any further discussion? Are you
4 read for the question?

5 The question arises on the adoption of Amendment
6 No. 8. A vote Aye is a vote in favor of the amendment. A
7 vote No is a vote against. Cast your vote.

8 (Whereupon, a rollcall vote was taken.)

9 THE PRESIDENT: Has every delegate voted? Does
10 any delegate desire to change his vote? The Clerk will
11 record the vote.

12 There being 97 votes in the affirmative and 1 in
13 the negative, the motion is carried and the amendment is
14 adopted.

15 Any other amendments to 4.19? 4.20? 4.21?

16 Delegate Morgan, do you desire to offer your
17 Amendment S?

18 DELEGATE MORGAN: That is correct.

19 THE PRESIDENT: Pages please distribute Amendment
20 S.

21 This will be Amendment 9. The Clerk will read

1 the amendment.

2 MR. QUILLEN: "Amendment No. 9 to Committee
3 Recommendation Nos. EB-1 and EB-2 as amended by S&D-13 by
4 Delegate Morgan.

5 "On page 8, Section 4.21. Qualifications of
6 Comptroller, in lines 43 and 46 respectively in each
7 instance after the word 'election' add the words 'or
8 appointment'."

9 THE PRESIDENT: The amendment having been sub-
10 mitted by Delegate Morgan, is there a second?

11 (The motion was duly seconded.)

12 THE PRESIDENT: The amendment having been
13 seconded, the Chair recognizes Delegate Morgan.

14 DELEGATE MORGAN: Under the Executive Article, if
15 there is a vacancy in the office of comptroller, the
16 governor can make the appointment. This makes it so an
17 appointed comptroller has to have the same qualifications
18 as an elected comptroller.

19 THE PRESIDENT: Any discussion?

20 The question arises on Amendment No. 9. A vote
21 Aye is a vote in favor of the amendment. A vote No is a

1 vote against. Cast your vote.

2 (Whereupon, a rollcall vote was taken.)

3 THE PRESIDENT: Has every delegate voted? Does
4 any delegate desire to change his vote?

5 The Clerk will record the vote.

6 There being 93 votes in the affirmative and none
7 in the negative, the motion is carried and the amendment is
8 adopted.

9 Any other amendments to Section 4.21? 4.22?

10 Delegate Morgan, do you desire to offer your
11 Amendment L?

12 DELEGATE MORGAN: I do.

13 THE PRESIDENT: Pages please distribute Amendment
14 L.

15 While we are waiting for that, this amendment has
16 the same problem. We will have the possibility of two
17 governors, two comptrollers and two attorneys general. The
18 Committee on Style will please keep that in mind.

19 The Clerk will read Amendment 10.

20 MR. QUILLEN: "Amendment No. 10, as amended by
21 Report No. S&D-13, to Committee Recommendation Nos. EB-1 and

1 EB-2 by Delegate Morgan, Chairman of the Committee on the
2 Executive Branch.

3 "On pages 8 and 9, Section 4.22. Election of
4 Comptroller strike out all of line 50 on page 8 and all of
5 lines 1 through 8, inclusive, on page 9 and insert in lieu
6 thereof the following:

7 "'The Comptroller shall be elected for a term of
8 four years by the voters of the State and shall serve until
9 his successor has qualified. The term of the Comptroller
10 shall begin on the first Wednesday in January following his
11 election unless that day is a legal holiday in which case
12 his term shall begin on the next day.'"

13 THE PRESIDENT: The amendment is submitted by
14 Delegate Morgan. Is there a second?

15 (The amendment was duly seconded.)

16 THE PRESIDENT: The amendment having been
17 seconded, the Chair recognizes Delegate Morgan.

18 DELEGATE MORGAN: Mr. President, this is simply
19 for the purpose of spelling out the election provisions for
20 the comptroller in the same manner as we did for the attorney
21 general just two minutes ago.

1 THE PRESIDENT: Any questions of the committee
2 chairman?

3 Delegate Boyles.

4 DELEGATE BOYLES: I would like to ask Chairman
5 Mudd if he would yield to a question.

6 THE PRESIDENT: Delegate Morgan, do you yield to
7 a question?

8 DELEGATE MORGAN: I yield.

9 THE PRESIDENT: Delegate Boyles.

10 DELEGATE BOYLES: Could you tell me what con-
11 ceivable legal holiday could come on January 3rd?

12 THE PRESIDENT: The Chair didn't understand your
13 question. You say January 3rd.

14 DELEGATE BOYLES: Yes. It says a legal holiday
15 on January 3rd.

16 THE PRESIDENT: Where is the reference?

17 DELEGATE BOYLES: The first Wednesday in
18 January.

19 I am sorry. It could be January 1st. I am very
20 sorry.

21 THE PRESIDENT: Any further discussion? Are you

1 ready for the question?

2 The question arises on the adoption of Amendment
3 No. 10. A vote Aye is a vote in favor of the amendment. A
4 vote No is a vote against. Cast your vote.

5 (Whereupon, a rollcall vote was taken.)

6 THE PRESIDENT: Has every delegate voted? Does
7 any delegate desire to change his vote?

8 The Clerk will record the vote.

9 There being 97 votes in the affirmative and 2 in
10 the negative, the motion is carried and the amendment is
11 adopted.

12 Any other amendments to Section 4.22?

13 Delegate Gill.

14 DELEGATE GILL: Mr. President and Delegate
15 Penniman, in the Legislative Branch 3.08, under Election and
16 Term of Office is where the change took place that Delegate
17 Chabot discovered about having overlapping terms. Shall I
18 read it?

19 THE PRESIDENT: No, I don't think it is necessary.

20 DELEGATE GILL: It is in the Legislative Branch,
21 3.08.

1 THE PRESIDENT: Thank you.

2 Delegate Henderson.

3 DELEGATE HENDERSON: I may have missed it but
4 there was an amendment to provide that the qualifications
5 of the lieutenant governor when appointed should be the same
6 as the elected one, and there was an equivalent one for the
7 comptroller. If there was one for the attorney general, I
8 missed it. Maybe it is still to come, I don't know.

9 THE PRESIDENT: I don't believe we had one for the
10 attorney general.

11 Delegate Marion.

12 DELEGATE MARION: Mr. President, I believe that
13 Delegate Henderson will find that is already there and was
14 done by amendment on the floor in the Committee of the
15 Whole. That similar amendment was done at that time.

16 THE PRESIDENT: What section? 4.18? Apparently
17 it is in Section 4.18, Delegate Henderson.

18 Any amendments to 4.22? 4.23? 4.24?

19 Delegate Marion, do you desire to offer your
20 Amendment E?

21 DELEGATE MARION: Yes.

1 THE PRESIDENT: Pages please distribute Amendment
2 E.

3 This will be Amendment No. 11.

4 The amendment is submitted by Delegate Marion. Is
5 there a second?

6 (The amendment was duly seconded.)

7 THE PRESIDENT: The Clerk will read the amendment.

8 MR. QUILLEN: "Amendment No. 11, as amended by
9 Report No. S&D-13, to Committee Recommendation No. EB-1 and
10 EB-2 by Delegate Marion.

11 "On page 9, Section 4.24. Board of Review strike
12 out all of lines 39 through 41, inclusive, and insert in
13 lieu thereof the following:

14 "'hold its meetings in public, and shall otherwise act in
15 the manner and with the powers that the General Assembly
16 may prescribe by law.'"

17 THE PRESIDENT: Up to this point the amendments
18 we have been considering have been largely technical in
19 character. I think that is not true as to this one. The
20 Chair handed additional amendments. There are now seven
21 more. I think it is unreasonable to go further.

1 The Chair recognizes Delegate Powers.

2 Before I recognize Delegate Powers, let me say
3 that I would like very much to conclude tomorrow afternoon
4 at as an early an hour as possible, but obviously from the
5 progress that we have made or not made this evening, it is
6 going to be very difficult. We will have to resume the
7 session at noon tomorrow. I will ask you to be prompt. We
8 will not take a recess for lunch. We will do our very best
9 to recess before 5 p.m.

10 Are there any announcements that have to be made
11 by committee chairmen? Any announcements by the delegates?
12 Apparently not.

13 Delegate Barrick.

14 DELEGATE BARRICK: Mr. President, I was just wonder-
15 ing if we could not meet earlier and maybe get off earlier
16 in the afternoon.

17 THE PRESIDENT: The difficulty is that we have
18 scheduled for some days a special meeting on transitional
19 provisions which can't be postponed. Too many people would
20 be tied up in the other meeting.

21 I think if you will have your lunch before coming

1 and get what rest you can before then. so that we can move
2 briskly tomorrow, we can get out.

3 Delegate Wiedemeyer.

4 DELEGATE WIEDEMEYER: I have one inquiry as to
5 whether we would meet tomorrow night.

6 THE PRESIDENT: I would hope that we would not.
7 Many of you have engagements I know.

8 Delegate Storm.

9 DELEGATE STORM: I may not get here early. Are
10 you talking about today or tomorrow?

11 THE PRESIDENT: I am talking about today. I
12 thank you, sir. My watch seems always to be running slow.

13 Delegate Powers.

14 Delegate Grumbacher.

15 DELEGATE GRUMBACHER: Will Delegate Powers yield
16 to a question?

17 DELEGATE POWERS: Yes.

18 DELEGATE GRUMBACHER: May we have the same bet
19 tomorrow night?

20 DELEGATE POWERS: Yes, gladly.

21 THE PRESIDENT: Any delegate not present now who

1 desires to answer the supplementary rollcall may do so now.

2 Delegate Powers.

3 DELEGATE POWERS: Mr. President, I move we adjourn
4 until 12 noon today.

5 THE PRESIDENT: Delegate Hardwicke.

6 DELEGATE HARDWICKE: I hope that the record will
7 show that the President said any delegates not present now
8 will indicate their presence on supplementary rollcall.

9 THE PRESIDENT: All we have done is confirm the
10 fact that it has been a long, long day.

11 All in favor of adjourning until today at noon will
12 please indicate by saying Aye.

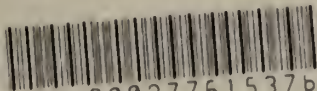
13 (Chorus of Ayes.)

14 THE PRESIDENT: Contrary, No.

15 The Ayes have it and it is so ordered.

16 (Whereupon, at 12:15 a.m., Saturday, December
17 30, 1967, the Convention recessed, to reconvene at 12:00
18 noon the same day.)
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